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No. 28] NEW DELHI, WEDNESDAY, JULY 26, 2017/SHRAVANA 4, 1939 (SAKA)

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके। Separate paging is given to this Part in order that it may be filed as a separate compilation.

MINISTRY OF LAW AND JUSTICE

(Legislative Department)

New Delhi, the 26*th July,* 2017/*Shravana* 4, 1939 (*Saka*)

THE ANDAMAN AND NICOBAR ISLANDS VALUE ADDED TAX REGULATION, 2017

No. 6 OF 2017

Promulgated by the President in the Sixty-eighth Year of the Republic of India.

A Regulation to provide for a tax system on the goods excluded from the Union Territory Goods and Services Tax Act, 2017 *and to widen the tax base by levying tax on sale of the said goods at every point of sale, making the levy of tax transparent and for matters connected therewith or incidental thereto.*

In exercise of the powers conferred by article 240 of the Constitution, the President is pleased to promulgate the following Regulation made by him:—

CHAPTER I

PRELIMINARY

Short title, extent and commencement.

1. (*1*) This Regulation may be called the Andaman and Nicobar Islands Value Added Tax Regulation, 2017.

(*2*) It extends to the whole of the Union territory of Andaman and Nicobar Islands.

(*3*) (*a*) The provisions of this Regulation, except sections 99 to 101, shall be deemed to have come into force on the 1st day of July, 2017.

(*b*) The provisions of sections 99 to 101 of this Regulation shall come into force at once.

Definitions.

2. (*1*) In this Regulation, unless the context otherwise requires,—

(*a*) "accountant" means—

(*i*) a chartered accountant within the meaning of clause (*b*) of sub-section (*1*) of section 2 of the Chartered Accountant's Act, 1949; or 38 of 1949.

(*ii*) a person who by virtue of the provisions of section 141 of the Companies Act, 2013, is entitled to be appointed to act as an auditor of companies registered; or 18 of 2013.

(*iii*द्ध ं बवेज ंबबवनदजंदज ूपजीपद जीम उमंदपदह व िजीम ब्वेज ंदक ॅवतो Accountants Act, 1959; or 23 of 1959.

(*iv*) a person referred to in section 139 and section 143 of the Companies Act, 2013; 18 of 2013.

(*b*) "adequate proof" means such documents, testimony or other evidence as may be prescribed;

(*c*) "Andaman and Nicobar Islands" means the Union territory of Andaman and Nicobar Islands;

(*d*) "Appellate Tribunal" means the Appellate Tribunal constituted under section 73;

(*e*) "business" includes—

(*i*) the provision of any services, but excluding the services provided by an employee;

(*ii*) any trade, commerce or manufacture;

(*iii*) any adventure or concern in the nature of trade, commerce or manufacture;

(*iv*) any transaction in connection with, or incidental or ancillary to, such trade, commerce, manufacture, adventure or concern; and

(*v*) any occasional transaction in the nature of such service, trade, commerce, manufacture, adventure or concern whether or not there is volume, frequency, continuity or regularity of such transaction,

whether or not such service, trade, commerce, manufacture, adventure or concern is carried on with a motive to make gain or profit and whether or not any gain or profit accrues from such service, trade, commerce, manufacture, adventure or concern;

(*f*) "business premises" includes—

(*i*) the address of a dealer, registered with the Commissioner;

(*ii*) any building or place used by a person for the conduct of his business, except for those parts of the building or place used principally as a residence;

(*iii*) any place from where a dealer carries on business through an agent (by whatever name called), the place of business of such agent; and a warehouse, godown or such other place where a dealer stores his goods;

(*g*) "capital goods" means plant, machinery and equipment used, directly or पदकपतमबजसलए पद जीम चतवबमेे व िजतंकम वत उंदनंिबजनतपदह वत वित मगमबनजपवद व ि ूवतो बवदजतंबज in Andaman and Nicobar Islands;

(*h*) "casual trader" means a person who, whether as principal, agent or in any other capacity undertakes occasional transactions in the nature of business involving buying, selling, supply or distribution of goods or conducting any exhibition-cum-sale in Andaman and Nicobar Islands whether for cash, deferred payment, commission, remuneration or other valuable consideration;

(*i*) "Commissioner" means the Commissioner of Value Added Tax appointed under sub-section (*1*) of section 66;

(*j*) "dealer" means any person who, for the purposes of or consequential to his engagement in or in connection with or incidental to or in the course of his business, buys or sells goods in Andaman and Nicobar Islands directly or otherwise, whether for cash or for deferred payment or for commission, remuneration or other valuable consideration and includes,—

(*i*) a factor, commission agent, broker, *del credere* agent or any other mercantile agent by whatever name called, who for the purposes of or consequential to his engagement in or in connection with or incidental to or in the course of the business, buys or sells or supplies or distributes any goods on behalf of any principal or principals whether disclosed or not;

(*ii*) a non-resident dealer or as the case may be, an agent, residing in the State of a non-resident dealer, who buys or sells goods in Andaman and Nicobar Islands for the purposes of or consequential to his engagement in or in connection with or incidental to or in the course of the business;

(*iii*) a local branch of a firm or company or an association of persons, outside Andaman and Nicobar Islands where such firm company, association of persons is a dealer under any other sub-clause of this definition;

(*iv*) a club, association, society, trust, or co-operative society, whether incorporated or unincorporated, which buys goods from or sells goods to its

members for price, fee or subscription, whether or not in the course of business;

(*v*) an auctioneer, who sells or auctions goods whether acting as an agent or otherwise or, who organises the sale of goods or conducts the auction of goods whether or not he has the authority to sell the goods belonging to any principal, whether disclosed or not and whether the offer of the intending purchaser is accepted by him or by the principal or a nominee of the principal;

(*vi*) a casual trader;

(*vii*) any person who, for the purposes of or consequential to his engagement in or in connection with or incidental to or in the course of his business disposes of any goods as unclaimed or confiscated, or as unserviceable or scrap, surplus, old, obsolete or as discarded material or waste products by way of sale;

(*viii*) Customs Department of the Government of India administering Customs Act, 1962; 52 of 1962.

(*ix*) Departments of the Central Government, State Governments and Union territory Administrations;

(*x*) Local authorities, Panchayats, Municipalities, Development Authorities and Cantonment Boards;

(*xi*) Public Charitable Trusts;

(*xii*) Railway Administration as defined under the Indian Railways Act, 1989; 24 of 1989.

(*xiii*) incorporated or unincorporated societies, clubs or other associations of persons;

(*xiv*) each autonomous or statutory body or corporation or company or society or any industrial, commercial, banking, insurance or trading undertaking, corporation, institution or company whether or not of the Union Government or any of the State Governments or of a local authority;

(*xv*) Shipping and construction companies, air transport companies, airlines and advertising agencies;

(*k*) "fair market value" means the value at which goods of like kind and quality are sold or would be sold in the same quantities between unrelated parties in the open market in Andaman and Nicobar Islands;

(*l*) "goods"means goods specified in the First Schedule, as amended from time to time;

(*m*) "goods vehicle" means a motor vehicle, vessel, boat, animal and any other form of conveyance used for carrying goods;

(*n*) "Government" means the Lieutenant Governor of the Andaman and Nicobar Islands appointed by the President under article 239 of the Constitution;

(*o*) "import" means sale or purchase in the course of the import of goods into the territory of India if the sale or purchase either occasions such import or is effected by transfer of document of title to the goods before the goods have crossed the customs frontiers of India and includes procurement of goods from outside the Andaman and Nicobar Islands either as a result of purchase or otherwise.

Explanation.—In the case of goods arriving in Andaman and Nicobar Islands from a foreign country through customs, the "import of the goods in Andaman and Nicobar Islands" shall occur at the place where the goods are cleared by Customs for home consumption;

(*p*) "importer" shall include—

(*i*) a person who brings his own goods into Andaman and Nicobar Islands; or

(*ii*) a person on whose behalf another person brings goods into Andaman and Nicobar Islands; or

(*iii*) in the case of a sale occurring in the circumstances referred to in sub-section (*2*) of section 6 of the Central Sales Tax Act, 1956, the person in Andaman and Nicobar Islands to whom the goods are delivered; 74 of 1956.

(*q*) "input tax" in relation to the purchase of goods, means the proportion of the price paid by the buyer for the goods which represents tax for which the selling dealer is liable under this Regulation;

(*r*) "manufacture" with its grammatical variations and cognate expressions, means producing, making, extracting, altering, ornamenting, finishing or otherwise processing, treating or adapting any goods, but does not include any such process or mode of manufacture as may be prescribed;

(*s*) "net tax" means the amount calculated for a tax period under section 11;

(*t*) "non-resident" means a person who has no fixed place of business or residence in Andaman and Nicobar Islands;

(*w*) "prescribed" means prescribed by rules made under this Regulation;

(*x*) "registered dealer" means a dealer registered under this Regulation;

(*y*) "related person" means a person who is related to another person (referred to in this definition as a "dealer") if the person—

(*i*) is a relative of the dealer;

(*ii*) is a partnership of which the dealer is a partner;

(*iii*) is a company in which the dealer [either alone or in conjunction with another person who is, or persons who are, related to the dealer under sub-clauses (*i*), (*ii*), (*iv*), (*v*) and (*vi*)].—directly or indirectly holds forty per cent. or more of outstanding voting stock or shares;

(*iv*) is a person who [either alone or in conjunction with another person who is, or other persons who are, related to the person under sub-clauses (*i*), (*ii*), (*iii*), (*v*) and (*vi*)].— directly or indirectly owns forty per cent. or more of outstanding voting stock or shares of the dealer;

(*v*) is a company in which forty per cent. or more of outstanding voting stock is held directly or indirectly by a person [either alone or in conjunction with another person who is, or other persons who are, related to the person under sub-clauses (*i*), (*ii*), (*iii*), (*iv*) and (*vi*)] who also holds forty per cent. or more of the outstanding voting stock or shares of the dealer; or

(*vi*) is controlled by the dealer or a person whom the dealer controls, or is a person who is controlled by the same person who controls the dealer;

(*z*) "relative" means a relative as defined in clause (*77*) of section 2 of the Companies Act, 2013; 18 of 2013.

(*za*) "sale" with its grammatical variations and cognate expression, means any transfer of property in goods by one person to another for cash or for deferred payment or for other valuable consideration (not including a grant or subvention payment made by one government agency or department, whether of the Central Government or of any State Government, to another) and includes—

(*i*) a transfer of goods on hire purchase or other system of payment by instalments, but does not include a mortgage or hypothecation of, or a charge or pledge on goods;

(*ii*) supply of goods by a society (including a co-operative society), club, firm, or any association to its members for cash or for deferred payment or for commission, remuneration or other valuable consideration, whether or not in the course of business;

(*iii*) transfer of property in goods by an auctioneer referred to in sub-clause (*vii*) of clause (*j*), or sale of goods in the course of any other activity in the nature of banking, insurance who in the course of their main activity also sell goods repossessed or re-claimed;

(*iv*) transfer, otherwise than in pursuance of a contract, of property in any goods for cash, deferred payment or other valuable consideration;

(*v*) transfer of the right to use any goods for any purpose (whether or not for a specified period) for cash, deferred payment or other valuable consideration;

(*vi*) supply, by way of or as part of any service or in any other manner whatsoever, of goods, being food or any other article for human consumption

or any drink (whether or not intoxicating), where such supply or service is for cash, deferred payment or other valuable consideration;

(*vii*) every disposal of goods referred to in sub-clause (*vii*) of clause (*j*) of this sub-section and the words "sell", "buy" and "purchase" wherever appearing with all their grammatical variations and cognate expressions, shall be construed accordingly;

(*zb*) "sale price" means the amount paid or payable as valuable consideration for any sale, including—

(*i*) the amount of tax, if any, for which the dealer is liable under section 3;

(*ii*) in relation to the delivery of goods on hire purchase or any system of payment by instalments, the amount of valuable consideration payable to a person for such delivery including hire charges, interest and other charges incidental to such transaction;

(*iii*) in relation to transfer of the right to use any goods for any purpose (whether or not for a specified period) the valuable consideration or hiring charges received or receivable for such transfer;

(*iv*) any sum charged for anything done by the dealer in respect of goods at the time of, or before, the delivery thereof;

(*v*) amount of duties levied or leviable on the goods under the Central Excise Act, 1944 or the Customs Act, 1962, or the Andaman and Nicobar Islands excise regulation whether such duties are payable by the seller or any person; 1 of 1944. 52 of 1962.

(*vi*) amount received or receivable by the seller by way of deposit (whether refundable or not) which has been received or is receivable whether by way of separate agreement or not, in connection with, or incidental to or ancillary to the sale of goods; and

(*vii*द्ध पद तमसंजपवद जव ूवतो बवदजतंबज उमंदे जीम ंउवनदज व िअंसनंइसम बवदेपकमतंजपवद चंपक वत चंलंइसम जव ं कमंसमत वित जीम मगमबनजपवद व िजीम ूवतो बवदजतंबजए less—

(*a*) any sum allowed as discount which goes to reduce the sale price according to the practice, normally, prevailing in trade;

(*b*) the cost of freight or delivery or the cost of installation in cases where such cost is separately charged; and the words "purchase price"with all their grammatical variations and cognate expressions, shall be construed accordingly:

Provided that where the dealer makes sale of goods imported into the territory of India, the sale price shall be higher of the following—

(*a*) the valuable consideration received or receivable by the dealer;

(*b*) value determined by the Custom authorities for payment of custom duty at the time of the import of such goods;

(*zc*) "Schedule" means a Schedule appended to this Regulation;

(*zd*) "tax" means tax payable under this Regulation;

(*ze*) "taxable quantum" means the amount defined in sub-section (*2*) of section 18;

(*zf*) "tax invoice" means the document as defined in section 50;

(*zg*) "tax period" means the period prescribed in the rules made under this Regulation;

(*zh*) "tax fraction" means the fraction calculated in accordance with formula, r / (r+100) where 'r' is the percentage rate of tax applicable to the sale under this Regulation;

(*zi*) the expression, "in the course of" includes activities done for the purposes of, in connection with, or incidental to, and activities done as part of the preparation for the activity and in the termination of the activity;

(*zj*) "transporter" means any person who, for the purposes of or in connection with or incidental to or in the course of his business transports or causes to transport goods, and includes any person whose business consists of or includes operating a railway, shipping company, air cargo terminal, inland container depot, container freight station, courier service or airline;

(*zk*) "turnover" means the aggregate of the amounts of sale price received or receivable by the person in any tax period, reduced by any tax for which the person is liable under section 3;

(*zl*) "turnover of purchases" means the aggregate of the amounts of purchase price paid or payable by a person in any tax period, excluding any input tax;

(*zm*) "value of goods" means the fair market value of the goods at that time including insurance charges, excise duties, countervailing duties, tax paid or payable under the Central Sales Tax Act, 1956 in respect of the sale, transport charges, charges and all other charges incidental to the transaction of the goods;

74 of 1956.

freight

(*zn*द्ध श्ूवतो बवदजतंबजश् पदबसनकमे ंदल ंहतममउमदज वित बंततलपदह वनज वित बंे ी वत वित deferred payment or for valuable consideration, the building construction, manufacture, processing, fabrication, erection, installation, fitting out, improvement, repair or commissioning of any movable or immovable property;

(*zo*) "year" means the financial year from the first day of April to the last day of March.

(*2*) Unless otherwise specified in this Regulaton—

(*a*) words importing the masculine gender shall include the feminine gender;

(*b*) words in singular shall include their plural and *vice versa;*

(*c*) expressions referring to "writing" shall include printing, typing, lithography, photography and other methods of representing or reproducing words in a visible form; and

(*d*) with reference to a person who is unable to sign his name, the word"signature" shall include his thumb impression or other mark duly attested to signify his signature.

CHAPTER II

LEVYOFTAX

Levy of tax.

3. (*1*) Subject to the other provisions of this Regulation, every dealer who is—

(*a*) registered under this Regulation; or

(*b*) required to be registered under this Regulation,

shall be liable to pay tax calculated in accordance with this Regulation, at the time and in the manner provided in this Regulation.

(*2*) Every dealer who has become liable to pay tax under this Regulation on the sale of goods shall continue to be so liable unless his taxable turnover during the preceding twelve months (and such further period as may be prescribed) has remained below the

taxable quantum and on the expiry of the twelve months or such further period his liability to pay tax shall cease:

Provided that any dealer whose liability to pay tax under this Regulation ceases for any other reason may apply earlier for the cancellation of his registration, and on such cancellation, his liability to pay tax shall cease:

Provided further that a dealer shall remain liable to pay tax until the date on which his registration is cancelled.

(*3*) Every dealer whose liability to pay tax under this Regulation has ceased or whose registration has been cancelled, shall, if his turnover calculated from the commencement of any year, including the year in which the registration has been cancelled, again exceeds the taxable quantum on any day within such year be liable to pay such tax on and from the date on which his turnover again exceeds the taxable quantum, on all sales effected by him on and after that day.

(*4*) Where it is found that any person registered as a dealer ought not to have been so registered, then notwithstanding anything contained in this Regulation, such person shall be liable to pay tax for the period during which he was registered.

(*5*) If any person who transports goods or holds goods in custody for delivery to or on behalf of any person, on being required by the Commissioner so to do, fails—

(*a*) to furnish any information in his possession in respect of the goods; or

(*b*) fails to permit inspection thereof,

then without prejudice to any other action which may be taken against such person, a presumption may be raised that the goods in respect of which he has failed to furnish information or permit inspection, are owned by him and are held by him for sale in Andaman and Nicobar Islands and the provisions shall apply accordingly.

(*6*) If any person who, whether as principal, agent or in any other capacity organises any exhibition-cum-sale in Andaman and Nicobar Islands and fails—

(*a*) to furnish any information in respect of the goods brought or kept in stock or sold by any participant before or during or after the exhibition-cum-sale; or

(*b*) to ensure that all the participants in the exhibition-cum-sale have obtained registration under this Regulation and paid due tax; or

(*c*) to permit inspection of the business premises or goods or account and records of the participants; or

(*d*) to permit inspection of the accounts and records of the organiser in respect of the exhibition-cum-sale,

then, without prejudice to any other action which may be taken against such participant, a presumption may be raised that the goods of the participant who fails to obtain registration under this Regulation or the goods in respect of which the participant has failed to furnish information or failed to permit inspection, are owned by the organiser and are held by him for sale in Andaman and Nicobar Islands and the provisions shall apply accordingly.

Rates of tax.

4. (*1*)The rates of tax payable on the taxable turnover of a dealer shall be in respect of goods specified in the First Schedule, at the rate specified therein.

(*2*) The Government may, if it deems necessary, change the rates of tax as specified in sub-section (*1*), by a notification to that effect in the Official Gazette.

Taxable turnover.

5.For the purposes of this Regulation, "taxable turnover" means the turnover of a dealer during the tax period which remains after deducting therefrom—

(*a*) the turnover of sales not subject to tax under section 7; and

(*b*) the turnover of sales of goods declared exempt under section 6.

Sale exempt from tax.

6.The sale of goods listed in the Second Schedule shall be exempted from tax subject to the conditions and exceptions set out therein.

Certain sales not liable to tax.

7.Nothing contained in this Regulation or the rules made thereunder shall be deemed to impose or authorise the imposition of tax on any sale of goods when such sale takes place—

(*a*) in the course of inter-State trade or commerce; or

(*b*) outside Andaman and Nicobar Islands; or

(*c*) in the course of import of the goods into or export of the goods out of, the territory of India;

(*d*) in accordance with the notification issued by the Central Government in exercise of its powers under section 3 of the Foreign Aircraft (Exemption from Taxes

36 of 2002. and Duties on Fuel) Act, 2002, no tax shall be levied on sales of the fuel and lubricants which are filled into receptacles

forming part of any aircraft registered in a country other than India, if—

(*i*) the said country is a party to the Convention on International and Civil Aviation, 1944;

(*ii*) the said country has entered into an Air Services agreement with India; and

(*iii*) the aircraft is operating on a scheduled or non-scheduled service to or from India.

Adjustments of tax.

8. (*1*)Subject to such conditions as may be prescribed, this section shall apply where, in relation to the sale of goods by any dealer,—

(*a*) that sale has been cancelled;

(*b*) the nature of that sale has been fundamentally varied or altered;

(*c*) the previously agreed consideration for that sale has been altered by agreement with the recipient, whether due to the offer of a discount or for any other reason;

(*d*) the goods or part of the goods sold have been returned to the dealer within six months of the date of sale; or

(*e*) the whole or part of the price owed by the buyer for the purchase of the goods has been written-off by the dealer as a bad debt; and the dealer has—

(*i*) provided a tax invoice in relation to that sale and the amount shown therein as tax charged on that sale is not the tax properly chargeable on that sale; or

(*ii*) furnished a return in relation to a tax period in respect of which tax on that sale is attributable, and has accounted for an amount of tax on that sale that is not the amount properly chargeable on that sale.

(*2*) Where a dealer has accounted for an incorrect amount of tax as contemplated in sub-section (*1*), that dealer shall make an adjustment in calculating the tax payable by that dealer in the return for the tax period during which it has become apparent that the tax is incorrect, and if—

(*a*) the tax payable in relation to that sale exceeds the tax actually accounted for by the dealer, the amount of that excess shall be deemed to arise in the tax period in which the adjustment is made, and shall not be attributable to any prior tax period; or

(*b*) the tax actually accounted for exceeds the tax payable in relation to the sale, the amount of that deficiency shall be subtracted from the tax payable by the dealer in the tax period in which the adjustment is made, and shall not be attributable to any prior tax period.

(*3*) Where a dealer sells goods that have been used in part for making—

(*a*) sales that are subject to tax under this Regulation or sales that are not liable to tax under section 7; and

(*b*) partly for other purposes, the amount of tax on the sale of the goods shall be the greater of—

(*i*) A— (A x B / C); or

(*ii*) A— B;

where A = the tax for which the dealer would be liable in respect of the sale apart from this section;

B = the amount by which the tax credit of the dealer in respect of the goods was reduced under sub-section (*4*) of section 9;

C = the amount of the tax credit before reduction under sub-section (*4*) of section 9.

Tax credit.

9. (*1*) No tax credit shall be allowed—

(*a*) in the case of the purchase of goods for goods purchased from a person who is not a registered dealer;

(*b*) for the purchase of non-creditable goods as listed in the Third Schedule;

(*c*) for the purchase of goods which are to be incorporated into the structure of a building owned or occupied by the person;

(*d*) for goods purchased from a dealer who has elected to pay tax under section 16;

(*e*) for goods purchased from a casual trader;

(*f*) to the dealers or class of dealers unless the tax paid by the purchasing dealer has actually been deposited by the selling dealer with the Government or has been lawfully adjusted against output tax liability and correctly reflected in the return filed for the respective tax period.

(*2*) The amount of the tax credit to which a dealer is entitled in respect of the purchase of goods shall be the amount of input tax arising in the tax period reduced in the manner described in sub-sections (*3*), (*5*) and (*9*).

(*3*) Where a dealer has purchased goods and the goods are to be used partly for the purpose of making the sales referred to in sub-section (*1*) and partly for other purposes, the amount of the tax credit shall be reduced proportionately.

(*4*) The method used by a dealer to determine the extent to which the goods are used in the manner specified in sub-section (*4*), shall be fair and reasonable in the circumstances:

Provided that the Commissioner may—

(*a*) after giving reasons in writing, reject the method adopted by the dealer and calculate the amount of tax credit; and

(*b*) prescribe methods for calculating the amount of tax credit or the amount of any adjustment or reduction of a tax credit in certain instances.

(*5*) Notwithstanding anything to the contrary contained in sub-section (*1*), where—

(*a*) a dealer has purchased goods (other than capital goods) for which a tax credit arises under sub-section (*1*);

(*b*) the goods or goods manufactured out of such goods are to be exported from Andaman and Nicobar Islands by way of transfer to a—

(*i*) non-resident consignment agent; or

(*ii*) non-resident branch of the dealer; and

(*c*) the transfer shall not be by way of a sale made in Andaman and Nicobar Islands; the amount of the tax credit shall be reduced by the prescribed percentage.

Explanation.—For the removal of doubts, it is hereby clarified that no tax credit shall be allowed for the purchase of goods from an unregistered dealer.

(*6*) The tax credit may be claimed by a dealer only if he holds a tax invoice at the time the prescribed return for the tax period is furnished.

(*7*) Notwithstanding anything to the contrary contained in sub-section (*1*), where—

(*a*) a dealer has purchased goods (other than capital goods) for which a tax credit arises under sub-section (*1*); and

(*b*) the goods or goods manufactured out of such goods are to be exported from Andaman and Nicobar Islands by way of sale made under sub-section (*1*) of section 8 of the Central Sales Tax Act, 1956, the amount of the tax credit shall be reduced by the prescribed percentage.

74 of 1956.

(*8*) Subject to the provisions of sub-sections (*1*) and (*2*), the tax credit of goods to be used for sale, as defined in sub-clause (*v*) of clause (*zb*) of sub-section (*1*) of section 2, shall be allowed as follows:—

(*a*) 1/4th of the input tax on such goods arising in the tax period, in the same tax period;

(*b*) balance 3/4th of such input tax, in equal proportions, in corresponding tax periods, in three immediately successive financial years.

Adjustment to tax credit.

10. (*1*) Where any purchaser has been issued with a credit note or debit note in terms of section 51 or if he returns or rejects goods purchased, as a consequence of which credit claimed by him in any tax period in respect of which the purchase of goods relates, becomes short or excess, he shall compensate such short or excess by adjusting the amount of the tax credit allowed to him in respect of the tax period in which the credit note or debit note has been issued or goods are returned.

(*2*) If goods which have been purchased were—

(*a*) intended to be used for the purposes specified under sub-section (*1*) of section 9and are subsequently used, fully or partly, for purposes other than those specified under the said sub-section; or

(*b*) intended for purposes other than those specified under sub-section (*1*) of said section 9, and are subsequently used, fully or partly, for the purposes specified in the said sub-section; the tax credit claimed in respect of such purchase shall be reduced or increased (as the case may be) for the tax period during which the said utilisation otherwise has taken place.

(*3*) Where—

(*a*) goods were purchased by a dealer;

(*b*) the dealer claimed a tax credit in respect of the goods, and did not reduce the tax credit by the prescribed percentage; and

(*c*) the goods are exported from Andaman and Nicobar Islands,—

(*i*) by way of a sale made as per the provisions of sub-section (*1*) of section 8 of the Central Sales Tax Act, 1956; or

74 of 1956.

(*ii*) other than by way of a sale, to a branch of the registered dealer or to a consignment agent; the dealer shall reduce the amount of tax credit originally claimed by the prescribed proportion.

(*4*) If goods which have been purchased by a dealer were—

(*a*) intended to be used for the purposes specified under sub-section (*1*) of section 9; and

(*b*) are subsequently incorporated into the structure of a building owned or occupied by the person; the tax credit claimed in respect of such purchase shall be reduced in the tax period during which such incorporation takes place.

(*5*) Where the goods which have been purchased by a dealer are sold at a price lower than the price at which it was purchased by the dealer, the tax credit on such purchases shall be reduced proportionately in the tax period during which the goods are sold.

Net tax.

11. (*1*) The net tax payable by a dealer for a tax period shall be determined by the formula: Net tax = O— I— C

Where—

O = the amount of tax payable by the person at the rates stipulated in section 4 in respect of the taxable turnover arising in the tax period, adjusted to take into account any adjustments to the tax payable required by section 8.

I = the amount of the tax credit arising in the tax period to which the person is entitled under section 9, adjusted to take into account any adjustments to the tax credit required by section 10.

C = the amount, if any, brought forward from the previous tax period under sub-section (*2*).

(*2*) Where the net tax of a dealer calculated under sub-section (*1*) amounts to a negative value, the dealer shall—

(*a*) adjust the said amount in the same tax period against the tax payable by him under the Central Sales Tax Act, 1956 if any; and 74 of 1956.

(*b*) be entitled to carry forward the amount remaining after application under clause (*a*) of sub-section (*2*) to next calendar month or tax period, as the case may be, of the same year, or claim a refund of the amount remaining after application under clause (*a*) of sub-section (*2*) at the end of a tax period of the same year and the Commissioner shall deal with the refund claim in the manner described in section 38 and section 39.

(*3*) No tax shall be payable under this Regulation by a contractor on the amount representing the value of the goods supplied by the contractee to the contractor in the मगमबनजपवद व िूवतो बवदजतंबज पद ूीपबी जीम वूदमतीपच व िेनबी हववके तमउंपदे ूपजी जीम बवदजतंबजमम under the terms of the contract and the amount representing the value of the goods supplied by the contractee to the contractor does not form part of the contract and is not deductible तिवउ जीम ंउवनदज चंलंइसम जव जीम बवदजतंबजवत इल जीम बवदजतंबजमम वित जीम मगमबनजपवद व िजीम ूवतो contract.

Time at which amount of turnover, turnover of purchases and adjustments arise.

12. (*1*) Subject to the provisions of sub-sections (*2*), (*3*) and (*4*), the amount of the turnover and the turnover of purchases of a dealer which arises during any tax period shall be the amount recorded in the accounts of the dealer where those accounts are regularly and systematically prepared and maintained, give a true and fair view of his dealings, and are employed by the dealer in determining the turnover of the dealer's business for commercial or income-tax purposes.

(*2*) The Commissioner may by notification—

(*a*) permit certain classes of dealer to record turnover based on amounts paid or received; and

(*b*) require certain classes of dealer to record turnover based on amounts payable or receivable.

(*3*) Where a dealer wishes to change the method of determining the turnover and turnover of purchases, he may only make the change with the consent of the Commissioner and on such terms and conditions as the Commissioner may impose.

(*4*) The Government may prescribe the time at which a dealer shall treat the— (*a*) turnover;

(*b*) turnover of purchases; and

(*c*) adjustment of tax or adjustment to a tax credit; as arising for a class of transactions.

CHAPTER III

SPECIALREGIMES

Priority.

13. Where a provision in this Chapter is inconsistent with a provision in Chapter II, the provision in this Chapter shall, to the extent of the inconsistency, prevails.

Treatment of stock brought forward during transition.

14. (*1*) Within a period of four months of the commencement of this Regulation, all registered dealers wishing to claim the credit referred to in sub-section (*2*), shall furnish to the Commissioner a statement of their trading stock, raw materials and packaging materials for trading stock (in this section referred to as "opening stock") which—

(*a*) is held in Andaman and Nicobar Islands on the date of the commencement of this Regulation;

(*b*) was purchased by the dealer after the first day of July 2016,

in such form as may be prescribed.

(*2*) If—

(*a*) the dealer has furnished the statement referred to in sub-section (*1*);

(*b*) the opening stock has borne tax under the Port Blair Municipal Council

Octroi Tax Bye-Laws, at the point specified by the Government under Rule 6 of the said Bye-Laws,

the amount of tax paid on such opening stock shall be determined in such manner and subject to such conditions and restrictions and to the extent as may be prescribed and shall be credited to the registered dealers as a tax credit under section 9.

(*3*) For the avoidance of doubt, no tax credit under sub-section (*2*) can be claimed—

(*a*) for finished goods manufactured out of tax paid raw material or capital goods; (*b*) in a statement furnished more than four months after the commencement; or (*c*) for opening stock which is held outside Andaman and Nicobar Islands.

(*4*) Every dealer wishing to claim a tax credit in excess of one lakh rupees on opening stock shall furnish with the statement a certificate signed by an accountant in the prescribed

form certifying that the net credit claim made is true and correct.

Second-hand goods.

15. (*1*) The provisions of this section shall apply where—

(*a*) a registered dealer sells second-hand goods;

(*b*) the registered dealer has purchased goods from a resident seller who was not registered under this Regulation;

(*c*) the goods were purchased either as trading stock for re-sale in an unmodified form or otherwise or as raw material for incorporation or division into trading stock;

(*d*) the registered dealer will be liable to tax under section 3 on the sale of the goods or the goods into which they were incorporated, as the case may be; and (*e*) the registered dealer has adequate proof of the amount paid for the goods.

(*2*) In the circumstances mentioned in sub-section (*1*), the registered dealer shall be entitled to a tax credit for the purposes of section 9 of the least of—

(*a*) the input tax borne by the resident seller when he purchased the goods;

(*b*) the tax fraction of the original cost of the goods to the resident seller;

(*c*) the tax fraction of the fair market value of the goods at the time of their purchase by the registered dealer; or

(*d*) the tax fraction of the consideration paid by the registered dealer for the goods.

(*3*) Where the amount paid by the registered dealer for the goods exceeds two thousand rupees, the tax credit shall be allowed in the tax period when the goods are sold by the registered dealer or the goods into which they have been incorporated are sold by the registered dealer.

Composition scheme for specified dealers.

16. (*1*) Notwithstanding anything contrary to this Regulation, every dealer whose—

(*a*) turnover in the year preceding the commencement; or

(*b*) turnover in the current year, does not exceed five lakh rupees or such other amount as may be specified by the Government by notification in the Official Gazette, shall have an option to pay tax under this section:

Provided that this sub-section shall not apply to dealers procuring goods from any place outside Andaman and Nicobar Islands or selling or supplying goods to any place outside Andaman and Nicobar Islands at any time during the year in which he opts to pay tax under this sub-section or if he is a registered dealer in the Andaman and Nicobar Islands under the Central Sales Tax Act, 1956: 74 of 1956.

Provided further that in case the Government has notified a composition scheme for a class of dealers under sub-section (*12*), such dealers shall not have an option to pay tax under this sub-section.

(*2*) At the time of making application for registration under section 19 of this Act, the dealer covered under sub-section (*1*) shall be required to specify if he intends to pay tax under this section:

Provided that once the dealer chooses to pay tax under this section, the option may be reversed only after the end of the year for which the option is made, by application to the Commissioner within such time and in such manner as may be prescribed:

Provided further that where a dealer chooses to reverse his option to pay tax under this section, he shall be eligible to claim credit of the tax paid under this Regulation on the trading stock, raw material and packaging material held by him in Andaman and Nicobar Islands on the date when such reversal takes effect subject to the conditions contained in section 20 in so far as they are applicable.

(*3*) In case a person who elects to pay tax under this section whose turnover in the year preceding the commencement of this Regulation does not exceed five lakh rupees or such other amount as may be specified by the Government by notification in the Official Gazette, he shall be required to specify the election to pay tax under this section within such time and in such manner as may be prescribed.

(*4*) Where a dealer elects to pay tax under this section, the dealer's net tax shall be the amount determined at the rate of one paisa in the rupee of the turnover of the dealer.

(*5*) A dealer who elects to pay tax under this section shall—

(*a*) not purchase goods from a person who is not registered under this Regulation;

(*b*) not compute his net tax under section 11;

(*c*) not be allowed to claim credit under section 9, section 14 and section 15;

(*d*) not be entitled to issue tax invoice;

(*e*) not be allowed to collect any amount by way of tax under this Regulation; and

(*f*) continue to retain tax invoices and retail invoices for all of his purchases as required under section 48.

(*6*) In case a person—

(*a*) whose turnover in the year preceding the commencement of this Regulation does not exceed five lakh rupees or such other amount as may be specified by the Government by notification in the Official Gazette; and

(*b*) who has opted to pay tax under this section in terms of sub-section (*3*) of this section,

he shall be required to pay tax on the goods held on the date of the commencement of this Regulation at the rates specified in section 4 on the fair market value of goods where such goods have not borne tax under the Port Blair Municipal Council Octroi Tax Bye-Laws.

(*7*) The tax due under sub-section (*6*) shall be paid at any time before the person specifies his intention to pay tax under this section.

(*8*) The proof of payment of tax referred to in sub-section (*6*) along with a statement of opening stock and finished goods in such form as may be prescribed shall be furnished to the Commissioner at the time the person specifies his intention to pay tax under this section.

(*9*) Subject to the other provisions, where a registered dealer pays tax at the rates specified in section 4, he may choose to pay tax under this section only from the beginning of the following year:

Provided that such registered dealer shall be required to pay tax at the rates specified in section 4 on the goods held by him on the first day of the said following year.

(*10*) If the turnover of a dealer who elects to pay tax under this section exceeds five lakh rupees or such other amount as may be specified by the Government by notification in the Official Gazette, he shall be liable to pay tax under section 3 on and from the day his taxable turnover exceeds five lakh rupees or such other amount as may be specified by the Government by notification in the Official Gazette and shall be entitled to claim credit of the input tax paid under this Regulation on goods held by him in Andaman and Nicobar Islands on such day:

Provided that such dealer has intimated the Commissioner within seven days of his becoming liable to pay tax under section 3 in the prescribed form and has furnished such other information to the Commissioner as may be prescribed.

(*11*) The Commissioner may notify a dealer or a class of dealers who shall not be entitled to opt for payment of tax under this section.

(*12*) Notwithstanding anything to the contrary contained in this Regulation, the Government may—

(*a*) by notification in the Official Gazette, notify schemes of composition, subject to such conditions and restrictions as may be specified therein, of tax payable by a class of dealers or classes of dealers and different types of schemes may be notified for different classes of dealers;

(*b*) specify, in any scheme of composition of tax payable by the class of dealers or classes of dealers, different rates of taxes for different class or classes of dealers but, in

such scheme, the net tax liability of the dealer opting to pay tax thereunder shall not exceed eight paise in the rupee of the turnover of the dealer.

(*13*) (*a*) Notwithstanding anything to the contrary contained in this Regulation, a casual trader shall—

(*i*) at least three days before commencing business in Andaman and Nicobar Islands, inform the Commissioner of such particulars of his business in such form and manner as may be prescribed;

(*ii*) deposit security in cash or in the form of bank draft as may be fixed by the Commissioner which shall not exceed estimated liability to pay tax for seven days or such lesser period for which the casual trader is conducting the business in Andaman and Nicobar Islands;

(*iii*) pay tax daily on the sales made during the previous day;

(*iv*) furnish to the Commissioner, immediately after conclusion of his business in Andaman and Nicobar Islands, a return in the prescribed form and manner; and

(*v*) not issue any tax invoice.

(*b*) The Commissioner shall, after verification of information furnished to him under clause (*a*) of sub-section (*1*) and after getting security under clause (*b*) of that sub-section, shall register the casual trader.

(*c*) Upon registration of casual trader, the Commissioner may issue the required forms to him for use as the declaration referred to in sub-section (*3*) of section 61 for bringing goods for sale in Andaman and Nicobar Islands and for taking the unsold goods out of Andaman and Nicobar Islands and the casual trader shall render complete account of the used forms and surrender the unused forms along with the return referred to in clause (*d*) of sub-section (*1*) of section 13.

(*d*) The Commissioner shall, after examination of the return furnished by the casual trader under clause (*d*) of sub-section (*1*), the forms referred to in sub-section (*3*) and the accounts maintained by him including the retail invoices issued, assess him to tax within five days and shall serve upon him a notice of assessment and after adjusting any tax and any other dues payable under this Regulation, refund the balance amount of security to him in case security is deposited in the form of cash deposit.

(*e*) The casual trader shall pay immediately the amount mentioned in the notice of assessment.

(*f*) On being satisfied that the amount due has been paid, the Commissioner shall release the security or balance security, as the case may be.

(*g*) Notwithstanding anything contained in this Regulation, the taxable quantum in respect of a casual trader shall be *nil*.

Transactions between related parties.

17. If—

(*a*) a registered dealer sells or gives goods to a related person;

(*b*) the terms or conditions of the transaction have been influenced by the relationship; and

(*c*) the related person had purchased the goods, the related person would not be entitled to a tax credit for the purchase, or the amount of the tax credit would be reduced under sub-section (*3*) of section 9, the transaction shall be deemed to be a sale made by the registered dealer and the sale price of the goods shall be deemed to be their fair market value.

CHAPTER IV

REGISTRATIONANDSECURITY

Mandatory and voluntary registration.

18. (*1*) Every dealer is required to apply for registration under this Regulation if—

(*a*) the dealer's turnover in the year preceding the commencement exceeded the taxable quantum; or

(*b*) the dealer's turnover in the current year exceeds the taxable quantum; or

(*c*) the dealer is liable to pay tax, or is registered or required to be registered under the Central Sales Tax Act, 1956: 74 of 1956.

Provided that a dealer dealing exclusively in goods mentioned in the First Schedule shall not be required to register.

(*2*) For the purposes, "taxable quantum" of a dealer shall be two lakh rupees, or such other amount as may be specified by the Government by notification in the Official Gazette: Provided that a dealer who imports for sale any goods into Andaman and Nicobar Islands, the taxable quantum shall be "*Nil*" or such other amount as may be specified by the Government by notification in the Official Gazette.

(*3*) The taxable quantum of a dealer shall not include turnover from—

(*a*) the sales of capital assets;

(*b*) the sales made in the course of winding up the dealer's activities; and (*c*) sales made as part of the permanent diminution of the dealer's activities.

(*4*) Any person who is not required by sub-section (*1*) to be registered but who— (*a*) is a dealer; or

(*b*) intends from a particular date to undertake activities which would make him a dealer, may apply for registration.

Registration.

19. (*1*) An application for registration shall be made in the prescribed form, within such time, containing such particulars and information and accompanied by such fee, security and other documents as may be prescribed.

(*2*) Where—

(*a*) an applicant furnishes a security in the prescribed form and for the prescribed amount; and

(*b*) all other forms and evidence required by and prescribed under this Regulation are complete and in order, the Commissioner shall register the applicant.

(*3*) Where the Commissioner has not registered the person within fifteen days from the date on which the application is made, the Commissioner shall, after conducting such inquiries as he deems fit, either—

(*a*) register the person forthwith as a registered dealer; or

(*b*) issue a notice to the applicant, clearly stating the grounds on which his application is proposed to be rejected and permitting him to show cause in writing, within fifteen further days, why his application should not be rejected:

Provided that where the Commissioner has not registered the person or issued a notice by the required date, the applicant shall be deemed to be registered for the purposes, and the Commissioner shall issue a certificate of registration to such person.

(*4*) Where, pursuant to clause (*b*) of sub-section (*3*), the applicant furnishes a reply to the notice, the Commissioner may, either accept the application and register the person, or reject the application for reasons to be recorded in writing.

(*5*) If the applicant fails to respond to the notice issued under clause (*b*) of sub-section (*3*) within the stipulated time, the application for registration shall stand rejected.

(*6*) Where a registered dealer has furnished a security as a condition of registration, such security shall be required for the continuance in effect of registration, unless otherwise provided by the Commissioner.

Effect of the registration.

20. (*1*) If at the time at which an unregistered dealer's registration takes effect after commencement and—

(*a*) the dealer holds trading stock for the purpose of sale, or for use as raw materials for the production of finished goods;

(*b*) the dealer has borne input tax on the purchase of the trading stock or raw materials;

(*c*) the dealer furnishes a statement of its trading stock and raw materials in the prescribed form to the Commissioner; and

(*d*) the dealer holds adequate proof of the amount of input tax in respect of the purchases,

the dealer shall be entitled to a tax credit for the trading stock or raw materials held by the dealer on the date that the dealer's registration takes effect:

Provided that the dealer must claim the entire amount of tax credit to which he is entitled in a single claim, which accompanies the first return furnished by the dealer under this Regulation.

(*2*) For the purposes of sub-section (*3*) of section 9, the amount of the tax credit shall be the least of—

(*a*) the amount of input tax disclosed in the proof referred to in clause (*d*) of sub-section (*1*);

(*b*) the tax fraction of the cost of the goods; or

(*c*) the tax fraction of the fair market value of the goods at the time of registration; or

(*d*) such amount as may be prescribed.

(*3*) Where the registered dealer accounts for turnover on the basis of amounts received and amounts paid, he shall exclude from his turnover—

(*a*) any amount received after he is registered in respect of sales made while he was unregistered; and

(*b*) any amount paid after he is registered in respect of purchases made while he was unregistered.

Amendment of registration.

21. (*1*) A registered dealer shall inform the Commissioner in the prescribed manner within one month, if he—

(*a*) sells or otherwise disposes of his business or any part of his business or any place of business, or effects or comes to know of any other change in the ownership of the business; or

(*b*) discontinues his business or changes his place of business or warehouse, or opens a new place of business, or closes the business for a period of more than one month; or

(*c*) changes the name, style, constitution or nature of his business; or

(*d*) enters into partnership or other association in regard to his business or adds, deletes or changes the particulars of the persons having interest in business; and if any such registered dealer dies, his legal representative shall, in like manner, inform the said authority.

(*2*) The Commissioner may, after considering any information furnished under this Regulation or otherwise received and after making such inquiry as he may deem fit, amend from time to time any registration.

(*3*) An amendment of the registration made under sub-section (*2*) shall take effect from the date of contingency which necessitates the amendment whether or not information in that behalf is furnished within the time prescribed under sub-section (*1*).

(*4*) Any amendment of a registration under this section shall be without prejudice to any liability for tax or penalty imposable or for any prosecution for an offence under this Regulation.

(*5*) For the removal of doubts, it is hereby clarified that where a registered dealer—

(*a*) effects a change to the nature of the goods ordinarily sold;

(*b*) is a firm and there is a change in the constitution of the firm without dissolution thereof; or

(*c*) is a trustee of a trust and there is a change in the trustees thereof; or

(*d*) is a Hindu Undivided Family and the business of such family is converted into a partnership business with all or any of the members of the family as partners thereof; or

(*e*) is a firm or a company or a trust or other organisation, and a change occurs in the management of the organisation,

then, merely by reason of the circumstances aforesaid, it shall not be necessary for the registered dealer to apply for a fresh certificate of registration and on information being furnished the registration shall be amended.

Cancellation of registration.

22. (*1*) Where—

(*a*) a registered dealer who is required to furnish security under the provisions has failed to furnish or maintain such security;

(*b*) a registered dealer has ceased to carry on any activity which would entitle him to be registered as a dealer under this Regulation;

(*c*) an incorporated body is closed down or otherwise ceases to exist;

(*d*) the owner of a proprietorship business dies leaving no successor to carry on the business;

(*e*) in the case of a firm or association of persons, it is dissolved;

(*f*) registered dealer has ceased to be liable to pay tax under this Regulation;

(*g*) a registered dealer knowingly furnishes a return which is misleading or deceptive in a material particular;

(*h*) a registered dealer has committed one or more offences or contravened the provisions and the offence or contravention is, in the opinion of the Commissioner, of such magnitude that it is necessary to do so; or

(*i*) the Commissioner, after conducting proper inquiries, is of the view that it is necessary to do so,

the Commissioner may, after service of a notice in the prescribed form and after providing the dealer an opportunity of being heard, cancel the registration of the dealer with effect from the date specified by him in the notice.

(*2*) Where—

(*a*) a registered dealer has ceased to carry on any activity which would entitle him to be registered as a dealer under this Regulation;

(*b*) an incorporated body is closed down or otherwise ceases to exist;

(*c*) the owner of a proprietorship business dies leaving no successor to carry on business;

(*d*) in the case of a firm or association of persons, it is dissolved; or

(*e*) a registered dealer has ceased to be liable to pay tax under this Regulation,

the registered dealer or the dealer's legal representative in case of clause (*c*), shall apply for cancellation of his registration to the Commissioner in the manner and within the time prescribed.

(*3*) On receipt of such application, if the Commissioner is satisfied that the dealer has ceased to be entitled to be registered, he may cancel the registration.

(*4*) If a registered dealer ceases to be registered, the Commissioner shall cancel the dealer's registration with effect from a specified date.

(*5*) If a dealer's registration which has been cancelled under this section is reinstated as a result of an appeal or other proceeding under this Regulation, the registration of the

dealer shall be restored and he shall be liable to pay tax as if his registration had never been cancelled.

(*6*) If any registered dealer whose registration has been restored under sub-section (*5*) satisfies the Commissioner that excess tax has been paid by him during the period his registration was inoperative which but for the cancellation of his registration he would not

have paid, then the amount of such tax shall be adjusted or refunded in such manner as may be prescribed.

(*7*) Every registered dealer who applies for cancellation of his registration shall surrender with his application the certificate of registration granted to him and every registered dealer whose registration is cancelled otherwise than on the basis of his application shall surrender the certificate of registration within seven days of the date of communication to him of the cancellation.

(*8*) The Commissioner shall, at intervals not exceeding three months, host on the departmental website, such particulars as may be prescribed, of registered dealers whose registration has been cancelled.

(*9*) The cancellation of registration shall not affect the liability of any person to pay tax due for any period and unpaid as on the date of such cancellation or which is assessed thereafter notwithstanding that he is not otherwise liable to pay tax under this Regulation.

Effect of de-registration.

23. (*1*) Every person whose registration is cancelled shall pay in respect of all goods held on the date of cancellation an amount equal to the higher of—

(*a*) the tax that would be payable in respect of those goods if the goods were sold at their fair market value on that date; or

(*b*) the tax credit previously claimed in respect of those goods.

(*2*) Where the dealer has accounted for turnover on the basis of amounts received and amounts paid, he shall include in the turnover of his final return—

(*a*) any amount not yet received in respect of sales made while he was registered; and

(*b*) any amount not yet paid in respect of purchases made while he was registered.

Registration during transition.

24. Every dealer who is registered under the Central Sales Tax Act, 1975, dealing in goods listed in the First Schedule. 43 of 1975.

Security from certain classes of dealers and other persons.

25. (*1*) The Commissioner may, if it appears to him to be necessary so to do, for the continuance of the certificate of registration, or for the proper realisation of tax, composition money or other dues payable under this Regulation or as a condition of registering a person as a dealer or as a condition of making a refund under section 38, or as a condition of de-sealing or release under sub-section (*4*) of section 60,require a person or prescribed class of persons to furnish security for the proper performance of their responsibilities under this Regulation or under the Central Sales Tax Act, 1956 in the prescribed amount, in the prescribed manner and within such time as may be prescribed. 74 of 1956.

(*2*) Notwithstanding anything contained in sub-section (*1*), the Commissioner may increase, vary, reduce or waive the prescribed amount of the security, having regard to—

(*a*द्ध जीम दंजनतम ंदक ेप्रम व िजीम इनेपदमे ंबजपअपजपमे व िजीम चमतेवदय

(*b*) the amount of any tax, interest or penalty for which the person may be or is likely to become liable at any time under this Regulation;

(*c*) the creditworthiness of the person;

(*d*) the nature of the security; and

(*e*) any other matter which the Commissioner considers relevant.

(*3*) Where the security or additional security furnished by a person is in the form of a surety bond and the surety dies or becomes insolvent, the person shall within one month of the occurrence of such event, inform the Commissioner and shall within three months of such occurrence, execute a fresh surety bond.

(*4*) Where the surety bond has been executed by another registered dealer and the dealer's registration is either cancelled or he has closed down his business, the person shall furnish a fresh security as may be prescribed and in the manner as stated in sub-section (*3*).

(*5*) The Commissioner may, for good and sufficient cause, order the forfeiture of the whole or any part of the security furnished by a person.

(*6*) Where the security furnished by any person is forfeited in whole or is rendered insufficient, he shall furnish a fresh security of the requisite amount or, as the case may be, shall make up the deficiency in such manner and within such period as may be specified.

CHAPTER V

RETURNS

Periodical payment of tax and furnishing of returns.

26. Every registered dealer who is liable to pay tax under this Regulation shall furnish to the Commissioner such returns for each tax period and by such dates and in such form and manner as may be prescribed.

Power to require other returns.

27. In addition to the returns specified in section 26, the Commissioner may require any person, whether a registered dealer or not, to furnish (whether on that person's own behalf or as an agent or trustee) him with such other returns in the prescribed form as and when the Commissioner requires.

Correction of deficiencies.

28. If a person discovers a discrepancy in a return furnished by him for a tax period under this Regulation, he shall remove such discrepancy and furnish a revised return within the year following the year of such tax period:

Provided that if, as a result of the discrepancy, the person has paid less tax than was due under this Regulation, he shall, pay the tax owed and interest thereon.

Signing returns.

29. Every return under this Chapter shall be signed and verified—

(*a*) in the case of an individual, by the individual himself, and where the individual is absent from India, either by the individual or by some person duly authorised by him in this behalf and where the individual is mentally incapacitated from attending to his affairs, by his guardian or by any other person competent to act on his behalf; (*b*) in the case of a Hindu Undivided Family, by a *Karta* and where the *Karta* is absent from India or is mentally incapacitated from attending to his affairs, by any other adult member of such family;

(*c*) in the case of a company or local authority, by the principal officer thereof;

(*d*) in the case of a firm, by any partner thereof, not being a minor;

(*e*) in the case of any other association, by any member of the association or persons;

(*f*) in the case of a trust, by the trustee or any trustee; and

(*g*) in the case of any other person, by some person competent to act on his behalf.

CHAPTER VI

ASSESSMENTANDPAYMENTOFTAX, INTERESTANDPENALTIESANDMAKINGREFUNDS

Assessment of tax, interest or penalty.

30. No claim may be made by the Commissioner for the payment by a person of an amount of tax, interest or penalty or other amount in the nature of tax, interest or penalty due under this Regulation except by the making of an assessment for the amount.

Self assess-ment.

31. (*1*) Where a return is furnished by a person as required under section 26 or section 27 which contains the prescribed information and complies with the requirements of this Regulation and the rules—

(*a*) the Commissioner is taken to have made, on the day on which the return is furnished, an assessment of the tax payable of the amount specified in the return;

(*b*) the return is deemed to be a notice of the assessment and to be under the hand of the Commissioner; and

(*c*) the notice referred to in clause (*b*) is deemed to have been served on the person on the day on which the Commissioner is deemed to have made the assessment.

(*2*) No assessment shall arise under sub-section (*1*), if the Commissioner has already made an assessment of tax in respect of the same tax period under any other provision of this Regulation.

Default assessment of tax payable.

32. (*1*) If any person—

(*a*) has not furnished returns required under this Regulation by the prescribed date; or

(*b*) has furnished incomplete or incorrect returns; or

(*c*) has furnished a return which does not comply with the requirements of this Regulation; or

(*d*) for any other reason the Commissioner is not satisfied with the return furnished by a person,

the Commissioner may for reasons to be recorded in writing assess or reassess to the best of his judgment the amount of net tax due for a tax period or more than one tax period by a single order so long as all such tax periods are comprised in one year.

(*2*) If, upon the information which has come into his possession, the Commissioner is satisfied that any person who has been liable to pay tax under this Regulation in respect of any period or periods, has failed to get himself registered, the Commissioner may for reasons to be recorded in writing, assess to the best of his judgment the amount of net tax due for such tax period or tax periods and all subsequent tax periods.

(*3*) Where the Commissioner has made an assessment under this section, the Commissioner shall forthwith serve on that person a notice of assessment of the amount of any additional tax due for that tax period.

(*4*) Where the Commissioner has made an assessment under this section and further tax is assessed as owed, the amount of further tax assessed is due and payable on the same date as the date on which the net tax for the tax period was due.

Assessment of penalty.

33. (*1*) Where the Commissioner has reason to believe that a liability to pay a penalty under this Regulation has arisen, the Commissioner, after recording the reason in writing, shall make and serve on the person a notice of assessment of the penalty that is due under this Regulation.

(*2*) The amount of any penalty assessed under this section is due and payable on the date on which the notice of assessment is served by the Commissioner.

(*3*) Any assessment made under this section shall be without prejudice to prosecution for any offence under this Regulation.

Limitation on assessment and re-assessment.

34. (*1*) No assessment or re-assessment shall be made by the Commissioner after the expiry of four years from—

(*a*) the end of the year comprising of one or more tax periods for which the person furnished a return under section 26 or section 28; or

(*b*) the date on which the Commissioner made an assessment of tax for the tax period, whichever is the earlier:

Provided that where the Commissioner has reason to believe that tax was not paid by reason of concealment, omission or failure to disclose fully material particulars on the part of the person, the said period shall stand extended to six years.

(*2*) Notwithstanding anything contained in sub-section (*1*) the Commissioner may make an assessment of tax within one year after the date of any decision of the Appellate Tribunal or court where the assessment is required to be made in consequence of, or to give effect to, the decision of the Appellate Tribunal or court which requires the re-assessment of the person.

Collection of assessed tax and penalties.

35. (*1*) Subject to provisions of sub-sections (*2*) and (*4*), where an amount of tax or penalty has been assessed under section 32 or 33, the Commissioner may not proceed to enforce payment of the amount assessed until two months after the date of service of the notice of assessment.

(*2*) Where a person has made an objection to an assessment or part of an assessment and has complied with the condition, if any, to entertain such objection in the manner provided in section 74, the Commissioner may not enforce the payment of balance amount in dispute under that assessment until the objection is resolved by the Commissioner.

(*3*) Nothing in this section shall stay any proceedings by the Commissioner or before a court for the recovery of—

(*a*) any amounts due under this Regulation that are not the subject of a dispute before the Commissioner; or

(*b*) any amounts due under this Regulation where the person has made an appeal to the Appellate Tribunal.

(*4*) Notwithstanding anything contained in sub-section (*1*), where an amount of tax or penalty has been assessed by the Commissioner and he is satisfied that there is a likelihood that it may not be possible to recover the amount assessed if collection is delayed, the Commissioner may specify a date in the notice of assessment as the date on which collection of the amounts due and payable may commence which is earlier than two months after the date of service of the notice of assessment.

Manner of payment of tax, penalties and interest.

36. Every person liable to pay tax, interest, penalty or any other amount under this Regulation shall pay the amount to the Government Treasury of Andaman and Nicobar Islands, a branch in Andaman and Nicobar Islands of a bank prescribed under the rules, or at such other place or in such other manner as may be prescribed.

Order of application of payments.

37. Where a person owes to the Commissioner tax, interest, or penalty and the person pays to the Commissioner or the Commissioner recovers some but not all of the amounts owed by the person, the amounts shall be treated as reducing the person's pay—

(*a*) interest, penalty and tax owed under this Regulation; and

74 of 1956. (*b*) interest, penalty and tax owed under the Central Sales Tax Act, 1956,

in the above order.

Refunds.

38. (*1*) Subject to the other provisions of this Regulation and the rules, the Commissioner shall refund to a person the amount of tax, penalty and interest, if any, paid by such person in excess of the amount due from him.

(*2*) Before making any refund, the Commissioner shall first apply such excess towards the recovery of any other amount due under this Regulation, or under the Central Sales Tax 74 of 1956. Act, 1956.

(*3*) Subject to the provisions of sub-section (*4*) and sub-section (*5*), any amount remaining after the application referred to in sub-section (*2*) shall be at the election of the dealer, either—

(*a*) refunded to the person,—

(*i*) within one month after the date on which the return was furnished or claim for the refund was made, if the tax period for the person claiming refund is one month;

(*ii*) within two months after the date on which the return was furnished or claim for the refund was made, if the tax period for the person claiming refund is a quarter; or

(*b*) carried forward to the next tax period as a tax credit in that period.

(*4*) Where the Commissioner has issued a notice to the person under section 58 advising him that an audit, investigation or inquiry into his business affairs shall be undertaken or sought additional information under section 59 of this Regulation, the amount shall be carried forward to the next tax period as a tax credit in that period.

(*5*) The Commissioner may, as a condition of the payment of a refund, demand security from the person pursuant to the powers conferred in section 25 within fifteen days from the date on which the return was furnished or claim for the refund was made.

(*6*) The Commissioner shall grant refund within fifteen days from the date the dealer furnishes the security to his satisfaction under sub-section (*5*).

(*7*) For calculating the period prescribed in clause (*a*) of sub-section (*3*), the time taken to—

(*a*) furnish the security under sub-section (*5*) to the satisfaction of the Commissioner; or

(*b*) furnish the additional information sought under section 59; or

(*c*) furnish returns under section 26 and section 27; or

(*d*) furnish the declaration or certificate forms as required under the Central Sales Tax Act, 1956, shall be excluded. 74 of 1956.

(*8*) Notwithstanding anything contained in this section, where—

(*a*) a registered dealer has sold goods to an unregistered person;

(*b*) the price charged for the goods includes an amount of tax payable under this Regulation; and

(*c*) the dealer is seeking the refund of this amount or to apply this amount under clause (*b*) of sub-section (*3*),

no amount shall be refunded to the dealer or may be applied by the dealer under clause (*b*) of sub-section (*3*) unless the Commissioner is satisfied that the dealer has refunded the amount to the purchaser.

(*9*) Where—

(*a*) a registered dealer has sold goods to another registered dealer; and

(*b*) the price charged for the goods expressly includes an amount of tax payable under this Regulation,

the amount may be refunded to the seller or may be applied by the seller under clause (*b*) of sub-section (*3*) and the Commissioner may reassess the buyer to deny the amount of the corresponding tax credit claimed by such buyer, whether or not the seller refunds the amount to the buyer.

(*10*) Where a registered dealer sells goods and the price charged for the goods is expressed not to include an amount of tax payable under this Regulation the amount may be refunded to the seller or may be applied by the seller under clause (*b*) of sub-section (*3*) without the seller being required to refund an amount to the purchaser.

(*11*) Notwithstanding anything to the contrary contained in sub-section (*3*), no refund shall be allowed to a dealer who has not filed any return due under this Regulation.

Power to withhold refund in certain cases.

39. (*1*) Where a person is entitled to a refund and any proceeding under this Regulation, including an audit under section 58, is pending against him, and the Commissioner is of the opinion that payment of such refund is likely to adversely affect the revenue and that it may not be possible to recover the amount later, the Commissioner in writing, either obtain a security equal to the amount to be refunded to the person or withhold the refund till such time the proceeding or the audit has been concluded.

(*2*) Where a refund is withheld under sub-section (*1*), the person shall be entitled to interest as provided under sub-section (*1*) of section 42 if as a result of the appeal or further proceeding, or any other proceeding he becomes entitled to the refund.

Collection of tax only by registered dealers.

40. (*1*) No person who is not a registered dealer shall collect in respect of any sale of goods by him in Andaman and Nicobar Islands any amount by way of tax under this Regulation and no registered dealer shall make any such collection except in accordance with this Regulation and the rules made thereunder and at the rates specified under this Regulation.

(*2*) Tax collected by a person who is not a registered dealer shall not be refunded and shall stand forfeited.

Refund of tax for embassies, officials, international and public organisations.

41. (*1*) The bodies listed in the Fourth Schedule shall be entitled to claim a refund of tax paid on goods purchased in Andaman and Nicobar Islands, subject to such restrictions and conditions as may be prescribed.

(*2*) Any person entitled to a refund under sub-section (*1*) may apply to the Commissioner in the manner and within the time prescribed.

Interest.

42. (*1*) A person entitled to a refund under this Regulation, shall be entitled to in addition to the refund, simple interest at the annual rate notified by the Government from time to time, computed on a daily basis from—

(*a*) the date that the refund was due to be paid to the person; or

(*b*) the date that the overpaid amount was paid by the person,

whichever is later, and such interest shall be calculated upon the date on which the refund is given:

Provided that the interest shall be calculated on the amount of refund due after deducting therefrom any tax, interest, penalty or any other dues under this Regulation, or under the Port Blair Municipal Council Octroi Tax Bye-Laws:

Provided further that if the amount of such refund is enhanced or reduced, as the case may be, such interest shall be enhanced or reduced accordingly.

(*2*) When a person is in default in making the payment of any tax, penalty or other amount due under this Regulation, he shall, in addition to the amount assessed, be liable to pay simple interest on such amount at the annual rate notified by the Government from time to time, computed on a daily basis, from the date of such default for so long as he continues to make default in the payment of the said amount.

(*3*) Where the amount of tax including any penalty due is wholly reduced, the amount of interest, if any, paid shall be refunded, or if such amount is varied, the interest due shall be calculated accordingly.

(*4*) Where the collection of any amount is stayed by the order of the Appellate Tribunal or any court or any other authority and the order is subsequently vacated, interest shall be payable for any period during which such order remained in operation.

(*5*) The interest payable by a person under this Regulation may be collected as tax due under this Regulation and shall be due and payable once the obligation to pay interest has arisen.

CHAPTER VII

RECOVERY OF TAX, INTEREST AND PENALTIES

Recovery of tax.

43. (*1*) The amount of any tax, interest, penalty or other amount due under this Regulation shall be paid in the manner specified in section 36 and a notice of assessment served on the person for such an amount shall constitute a demand for payment of the amount stated in the assessment by the time stipulated in the notice of assessment.

(*2*) On an application made before the expiry of the due date under section 35, the Commissioner may, in respect of any dealer or person and for reasons to be recorded in writing, extend the time for payment or allow payment by instalments, subject to such conditions as he may think fit to impose in the circumstances of the case.

(*3*) Any amount of tax, interest or penalty, composition money or other amount due under this Regulation which remains unpaid, shall be recoverable—

(*a*) as arrears of land revenue, or

(*b*) by the Commissioner in accordance with the provisions of sub-section (*6*) and the rules regulating the procedure of recovery of tax, interest or penalty, composition money or other amount due as may be prescribed.

(*4*) Where security, other than in the form of surety bond, has been furnished under the Regulation, the Commissioner may, for reasons to be recorded in writing, recover any amount of tax, interest, penalty, composition money or other amount due or part thereof by ordering the forfeiture of the whole or any part of the security.

(*5*) Where any security tendered for the purposes is to be sold, it shall be sold in the manner stipulated in section 63.

(*6*) Where any amount of tax, interest or penalty, composition money or other amount due under this Regulation is recoverable in accordance with the provisions of clause (*b*) of sub-section (*3*), the Commissioner may prepare a recovery certificate (hereafter in this Chapter referred to as "certificate") under his signature specifying the amount of such tax, interest or penalty, composition money or other amount due from the dealer, casual dealer, transporter, carrier or transporting agent, owner or lessee or occupier of warehouse, owner of any goods or any other person (hereafter in this Chapter referred to as the "certificate-debtor") and he shall cause the said certificate to be served upon the certificate-debtor, in such manner and form as may be prescribed and proceed to recover from the certificate-debtor the amount specified in the certificate by one or more of the following modes in accordance with the rules as may be prescribed—

(*a*) attachment and sale of movable property of the certificate-debtor;

(*b*) attachment and sale of immovable property of the certificate-debtor;

(*c*) arrest of the certificate-debtor and his detention in prison for a period of fifteen days;

(*d*) appointing a receiver for the management of the movable and immovable properties of the certificate-debtor.

(*7*) The Commissioner may serve upon the defaulter the recovery certificate under sub-section (*6*), notwithstanding that proceedings for recovery of such tax, interest or penalty, composition money or other amount due have been initiated or continuing by any other mode.

(*8*) On the service of the certificate under sub-section (*6*) upon a certificate-debtor—

(*a*) any private transfer or delivery of any of his immovable property or of any interest in any such property, shall be void against any claim enforceable in the execution of the certificate; and

(*b*) the amount due from time to time in respect of the certificate shall be a charge upon the immovable property of the certificate-debtor, to which every other charge created subsequently to the service of the said certificate shall be postponed.

(*9*) The certificate-debtor may, within thirty days from the service of the certificate, present to the Commissioner a petition denying his liability in whole or in part.

(*10*) The Commissioner shall hear the petition, take evidence, if necessary, and determine whether the certificate-debtor is liable for the whole or any part of the amount for which certificate was signed.

(*11*) Where any proceedings for the recovery of any tax, interest or penalty, composition money or other amount due remaining unpaid have been commenced under this section and the tax, interest or penalty, composition money or other amount due is subsequently modified, enhanced or reduced in consequence of any assessment made, or order passed on objection, appeal, revision or review under this Regulation, the Commissioner may inform the certificate-debtor and thereupon such proceedings may be continued as if the tax, interest or penalty, composition money or other amount due as so modified, enhanced or reduced has been substituted for the tax, interest or penalty, composition money or other amount due which was to be recovered under sub-section (*3*).

Application of the Andaman and Nicobar Islands Land Revenue and Land Reforms Regulation, 1966 for purposes of recovery.

44. (*1*) For the purposes of recovery of any amount recoverable as arrears of land revenue under this Regulation, the provisions of the Andaman and Nicobar Islands Land Revenue and Land Reforms Regulation, 1966, as to the recovery of arrears of land revenue shall, notwithstanding anything contained in that Regulation or in any other enactment, be deemed to be in force throughout the Andaman and Nicobar Islands and the provisions of the Revenue Recovery Act, 1890 shall have effect accordingly.

Reg. 2 of 1966.

1 of 1890.

(*2*) For the purposes of sub-section (*1*)—

(*a*) the Additional Commissioner of Value Added Tax and the Joint Commissioner of Value Added Tax shall have and exercise all the powers and perform all the duties of the Deputy Commissioner under theAndaman and Nicobar Islands

Land Revenue and Land Reforms Regulation, 1966;

Reg. 2 of 1966.

(*b*) the Deputy Commissioner of Value Added Tax and the Assistant Commissioner of Value Added Tax shall have and exercise all the powers and perform all the duties of Assistant Commissioner or Assistant Commissioner (Settlement) under the said Regulation;

(*c*) the Value Added Tax Officers and the Assistant Value Added Tax Officers shall have and exercise all the powers and perform all the duties of Tehsildar under the said Regulation.

Continuation of certain recovery proceedings.

45. Where an assessment or notice of demand in respect of any tax, penalty or other amount payable under this Regulation (hereafter in this section referred to as "government dues") is served upon any person and any objection or appeal is initiated by the person against the assessment or demand for such government dues then—

(*a*) if the objection or appeal is disallowed in whole or in part, any recovery proceedings taken for the recovery of such government dues before the making of the objection or appeal, may, without the service of any fresh assessment or notice of demand, be continued from the stage at which such recovery proceedings stood immediately before the person made the objection or appeal; or

(*b*) where such government dues are reduced in any objection or appeal—

(*i*) it shall not be necessary for the Commissioner to serve upon the person a fresh assessment or notice of demand;

(*ii*) the Commissioner shall give intimation of such reduction to him and to the person with whom recovery proceedings are pending;

(*iii*) any recovery proceedings initiated on the basis of an assessment or notice of demand served upon a person before the disposal of such objection or appeal, may be continued in relation to the amount so reduced from the stage at which such proceedings stood immediately before the person made the objection or appeal; and

(*c*) no recovery proceedings in relation to such Government dues shall be invalid by reason only that no fresh notice of demand was served upon the dealer or person after the disposal of such objection or appeal or such Government dues have been enhanced or reduced in such objection or appeal.

Special mode of recovery.

46. (*1*) Notwithstanding anything contained in any law or contract to the contrary, the Commissioner may, at any time or from time to time, by notice in writing, a copy of which shall be forwarded to the person at his last known address, require,—

(*a*) any person from whom any amount of money is due, or may become due, to the person (in this section called "the taxpayer") liable to pay tax, interest or penalties under section 45; or

(*b*) any person who holds or may subsequently hold money for or on account of the taxpayer, to pay to the Commissioner, either forthwith upon the money becoming due or being held or within the time specified in the first mentioned notice (but not before the money becomes due or is held as aforesaid) so much of the money as is sufficient to pay the amount due by the taxpayer in respect of the arrears

of tax, interest and penalty under this Regulation, or the whole of the money when it is equal to or less than that amount.

(*2*) The Commissioner may amend or revoke any such notice or extend the time for making any payment in pursuance of the notice.

(*3*) Any person making any payment in compliance with a notice under this section shall be deemed to have made the payment under the authority of the taxpayer, and the receipt thereof by the Commissioner shall constitute a good and sufficient discharge of the liability of such person to the extent of the amount specified in the receipt.

(*4*) Any person discharging any liability to the taxpayer after receipt of the notice referred to in this section, shall be personally liable to the Commissioner to the extent of the liability discharged or to the extent of the liability of the dealer for tax and penalty, whichever is less.

(*5*) Where a person to whom a notice under this section is sent, proves to the satisfaction of the Commissioner that the sum demanded or any part thereof is not due to the taxpayer or that he does not hold any money for or on account of the taxpayer, then, nothing contained in this section shall be deemed to require such person to pay any such sum or part thereof, as the case may be, to the Commissioner.

(*6*) Any amount of money which the aforesaid person is required to pay to the Commissioner, or for which he is personally liable to the Commissioner under this section shall, if it remains unpaid, be recoverable as if arrears of land revenue.

(*7*) The Commissioner may apply to the court in whose custody there is money belonging to the taxpayer for payment to him of the entire amount of such money or if it is more than the tax, interest and penalty, if any, due, an amount sufficient to discharge such tax and the penalty.

(*8*) (*a*) Where, during the course of inquiry of any proceeding including any proceeding for recovery of any amount due in respect of any person or dealer or during any inspection or search in relation to the business of any person or dealer under this Regulation, the Commissioner is of the opinion that for the purpose of protecting the interest of the revenue it is necessary so to do, he may, notwithstanding anything contained in any law for the time being in force or any contract to the contrary, by order in writing, attach provisionally any property movable or immovable, belonging to such person or dealer.

(*b*) Every such provisional attachment shall cease to have effect after the expiry of a period of six months from the date of the order made under sub-section (*1*):

Provided that the Commissioner may, for reasons to be recorded in writing, extend जीम ंवितमेंपक चमतपवक इल ेनबी नितजीमत चमतपवक वत चमतपवके ंे ंीम जीपदो पिजए ेवए ंीवूमअमतए जींज जीम total period of extension shall not in any case exceed two years:

Provided further that the Commissioner may, by an order, revoke such order if the person or the dealer furnishes to the Commissioner, a Bank Guarantee in such time, for such period as may be specified by the Commissioner in this behalf:

Provided also that the power under this section shall be exercised by the Commissioner himself or by the Additional Commissioner to whom the Commissioner has delegated such power.

Transfer of assets during pendency of proceedings void.

47. Where, during the pendency of any proceedings for the recovery of an amount owed by a person under this Regulation, that person creates a charge on or parts with the possession by way of sale, mortgage, gift or exchange or any other mode of transfer whatsoever, any of his assets in favour of any other person, such charge or transfer shall void against any claim by the Commissioner in respect of the amount which is the subject of proceedings, unless the other person—

(*a*) acted *bona fide* and without notice of the recovery proceedings; and

(*b*) has paid the fair market value for the assets.

CHAPTER VIII

ACCOUNTSANDRECORDS

Records and accounts.

48. (*1*) Every dealer or person, on whom a notice has been served to furnish returns under section 27, shall prepare, maintain and retain sufficient records at the principal place of business as recorded in his certificate of registration to allow the Commissioner to readily ascertain the amount of tax due under this Regulation, and to explain all transactions, events and other acts engaged in by the person that are relevant for any purpose:

च्तवअपकमक जींज जीम कमंसमत उंपदजंपदपदह बवउचनजमतपेमक इववो व ि◌ंबबवनदज नेपदह ं ेवजिूंतम should be able to readily provide soft or hard copy of the records at the principal place of business as recorded in his certificate of registration, as and when required by the Commissioner.

(*2*) Notwithstanding anything contained in sub-section (*1*)—

(*a*) every registered dealer shall preserve a copy of all tax invoices issued by him;

(*b*) every dealer shall preserve the original of all tax invoices received by him; and

(*c*) every person who has paid an amount of tax, interest, penalty or other amount owed under this Regulation, shall preserve a copy of the challan evidencing the making of the payment.

form in which accounts and records are to be prepared.

(*4*) If the Commissioner considers that such records are not sufficiently clear and intelligible to enable him to make a proper check of the obligations required of the person under this Regulation, he may require such person by notice in writing to keep such accounts (including records of purchase and sales) as may be specified therein.

(*5*) The Commissioner may, by notification in the Official Gazette, direct any class of dealers, transporters or operators of warehouses to keep such accounts (including records of purchases and sales) as may be specified in the notification.

(*6*) Every person required to prepare or preserve records and accounts shall retain the required records and accounts for, at least, seven years after the conclusion of the events or transactions which they record unless any proceedings in respect of that year are pending in which case they shall be preserved till the final decision in those proceedings. Any loss thereof shall be reported to the Police and the Commissioner within a period of fifteen days from the date of occurrence.

Accounts to be audited in certain cases.

49. If, in respect of any particular year, the gross turnover of a dealer exceeds sixty lakh rupees or such other amount as may be prescribed, then, such dealer shall submit a report in such manner, form and period as may be notified by the Commissioner.

Tax invoices.

50. (*1*) A registered dealer making a sale liable to tax under this Regulation shall, at the request of the purchaser, provide the purchaser at the time of sale with a tax invoice containing the particulars specified in sub-section (*2*) and retain a copy thereof:

Provided that a tax invoice shall not be issued by a dealer who—

(*a*) elects to pay tax under section 16; or

(*b*) is making the sale in the course of inter-state trade or commerce or export:

Provided further that not more than one tax invoice shall be issued for each sale:

Provided also that if an invoice has been issued under the provisions of the Central Excise Act, 1944, it shall be deemed to be a tax invoice if it contains the particulars specified in sub-section (*2*). 1 of 1944.

(*2*) The tax invoice issued under sub-section (*1*) shall contain the following particulars on the original as well as copies thereof—

(*a*) the words ‘tax invoice’ in a prominent place;

(*b*) the name, address and registration number of the selling registered dealer;

(*c*) the name and address of the purchaser and his registration number, where the purchaser is a registered dealer;

(*d*) an individual pre-printed serialised number and the date on which the tax invoice is issued:

Provided that a dealer may maintain separate numerical series, with distinct codes either, as a prefix or suffix, for each place of business in case the dealer has more than one place of business in Andaman and Nicobar Islands or for each product in case he deals in more than one product or both:

Provided further that such numerical series may be granted by the Commissioner, in such manner and from such date as may be notified by him;

(*e*) description, quantity, volume and value of goods sold and services provided and the amount of tax charged thereon indicated separately;

(*f*) the signature of the selling dealer or his servant, manager or agent, duly authorised by him; and

(*g*) the name and address of the printer and first and last serial number of tax invoices printed and supplied by him to the dealer.

(*3*) A tax invoice in respect of a sale shall be issued in duplicate, the original shall be issued to the purchaser (or the person taking the delivery, as the case may be) and the duplicate shall be retained by the selling dealer.

(*4*) Except when a tax invoice is issued under sub-section (*1*), if a dealer sells any

goods exceeding such amount in value as may be prescribed, in any one transaction to any person, he shall issue to the purchaser a retail invoice containing the particulars specified in sub-section (*5*) and retain a copy thereof.

(*5*) The retail invoice issued under sub-section (*4*) shall contain the following particulars on the original as well as copies thereof—

(*a*) the words 'retail invoice' or 'cash memorandum' or 'bill' in a prominent place;

(*b*) the name, address and registration number of the selling dealer, if registered;

(*c*) in case the sale is in the course of inter-state trade or commerce, the name, registration number and address of the purchasing dealer and type of statutory form, if any, against which the sale has been made;

(*d*) an individual pre-printed serialised number and the date on which the retail invoice is issued:

Provided that a dealer may maintain separate numerical series with distinct codes, either as prefix or suffix, for each place of business, in case the dealer has more than one place of business in Andaman and Nicobar Islands or for each product in case he deals in more than one product or both:

Provided further that such numerical series may be granted by the Commissioner, in such manner and from such date as may be notified by him;

(*e*) description, quantity, volume and value of goods sold and services provided and the amount of tax charged thereon indicated separately; and

(*f*) the signature of the selling dealer or his servant, manager or agent, duly authorised by him.

(*6*) Retail invoice shall be issued in duplicate, the original shall be issued to the purchaser and the copy shall be retained by the selling dealer.

(*7*) The Commissioner may, by notification in the Official Gazette, specify the manner and

form in which the particulars on a tax invoice or retail invoice are to be recorded.

(*8*) If a purchaser claims to have lost the original tax invoice, the selling dealer may, subject to such conditions and restrictions as may be prescribed, provide a copy clearly marked as a duplicate.

Credit and debit notes.

51. Where a tax invoice has been issued in respect of a sale and—

(*a*) the amount shown as tax in that tax invoice exceeds the tax payable in respect of the sale, the dealer shall provide the purchaser with a credit note, containing such particulars as may be prescribed; or

(*b*) the tax payable in respect of the sale exceeds the amount shown as tax on the tax invoice,

the dealer shall provide the purchaser with a debit note, containing such particulars as may be prescribed.

CHAPTER IX

LIABILITYINSPECIALCASES

Liability in case of transfer of business.

52. (*1*) Where a dealer liable to pay tax under this Regulation transfers his business in whole or in part, by sale, gift, lease, leave or licence, hire or in any other manner whatsoever, the dealer and the person to whom the business is so transferred shall jointly be liable to pay the tax, interest or penalty due from the dealer up to the time of such transfer, whether such amount has been assessed before such transfer, but has remained unpaid or is assessed thereafter.

(*2*) Where the transferee or the lessee of a business referred to in sub-section (*1*) carries on such business either in his own name or in some other name, he shall be liable to

pay tax on the sale of goods effected by him with effect from the date of such transfer and shall, if he is registered as a dealer, apply within the time specified in section 21for the amendment of his registration.

Liability in case of company in liquidation.

53. (*1*) Every person—

(*a*) who is a liquidator of any company which is being wound up, whether under the orders of a court or otherwise; or

(*b*) who has been appointed the receiver of any assets of a company (hereafter in this section referred to as the "liquidator"),

shall, within one month after he has become such liquidator, give notice of his appointment as such to the Commissioner.

(*2*) The Commissioner shall, after making such inquiries or calling for such information as he may deem fit, notify the liquidator within three months from the date on which he received notice of the appointment of the liquidator, the amount which, in the opinion of the Commissioner, would be sufficient to provide for any tax, interest or penalty which is then, or is likely thereafter, to become payable by the company.

(*3*) The liquidator shall not part with any of the assets of the company or the properties in his hand until he has been notified by the Commissioner under sub-section (*2*) and on being so notified, the liquidator shall set aside an amount equal to the amount notified and, until he so sets aside such amount, he shall not part with any of the assets of the company or the properties in his hand:

Provided that nothing contained in this sub-section shall debar the liquidator from parting with such assets or properties in compliance with any order of a court or for the purpose of the payment of the tax and penalty, if any, payable by the company under this Regulation or for making any payment to secured creditors whose debts are entitled under law to priority of payments over debts due to government on the date of liquidation or for meeting such costs and expenses of the winding up of the company as are in the opinion of the Commissioner reasonable.

(*4*) If the liquidator fails to give notice in accordance with sub-section (*1*) or fails to set aside the amount as required by sub-section (*3*) or parts with any assets of the company or the properties in his hand in contravention of the provisions of that sub-section, he shall be personally liable for the payment of tax and penalty, if any, which the company would be liable to pay under this Regulation:

Provided that if the amount of tax and penalty, if any, payable by the company is notified under sub-section (*2*) the personal liability of the liquidator under this sub-section shall be to the extent of such amount.

(*5*) Where there is more than one liquidator, the obligations and liabilities attached to a liquidator under this section shall attach to all the liquidators jointly and severally.

(*6*) When any private company is wound up and any tax and penalty, if any, assessed under this Regulation on the company for any period, whether before or in the course of or after its liquidation, cannot be recovered, then every person who was a director of the private company at any time during the period for which the tax is due, shall be jointly and severally liable for the payment of such tax and penalty, if any, unless he proves to the satisfaction of the Commissioner that non-recovery cannot be attributed to any gross neglect, misfeasance or breach of duty on his part in relation to the affairs of the company.

(*7*) The provisions shall have effect notwithstanding anything to the contrary contained in any other law for the time being in force.

(*8*) For the purposes of this section, the expressions "company" and "private company" shall have the meanings respectively assigned to them under clauses (*20*) and (*68*) of section 2 of the Companies Act, 2013. 18 of 2013.

Liability of partners of firm to pay tax.

54. Notwithstanding any contract to the contrary, where any firm is liable to pay any tax, interest or penalty under this Regulation, the firm and each of the partners of the firm shall be jointly and severally liable for such payment:

Provided that where any such partner retires from the firm, he shall intimate the date of his retirement to the Commissioner by a notice to that effect in writing and he shall be liable to pay tax, interest or penalty remaining unpaid at the time of his retirement and any tax, interest or penalty due up to the date of his retirement though unassessed on that date:

Provided further that if no such intimation is given within fifteen days from the date of retirement, the liability of the partner under the first proviso shall continue until the date on which such intimation is received by the Commissioner.

Liability of guardians, trustees, etc.

55. Where the business in respect of which tax is payable under this Regulation is carried on by, or is in the charge of any guardian, trustee or agent of a minor or other incapacitated person on his behalf and for the benefit of such minor or other incapacitated person, the tax, interest or penalty shall be levied upon and recoverable from such guardian, trustee or agent, as the case may be, in like manner and to the same extent as it would be assessed upon and recoverable from any such minor or other incapacitated person, if he were of full age and of sound mind and if he were conducting the business himself, and all the provisions shall, so far as may be, apply accordingly.

Liability of Court of Wards, etc.

56. Where the estate or any portion of the estate of a dealer owning a business in respect of which tax is payable under this Regulation is under the control of the Court of Wards, the Administrator-General, the Official Trustee or any receiver or manager any person, whatever be his designation, who in fact manages the business) appointed by or under any order of a court, the tax, interest or penalty shall be levied upon and be recoverable from such Court of Wards, Administrator-General, Official Trustee, receiver or manager in like manner and to the same extent as it would be assessable upon and be recoverable from the dealer if he were conducting the business himself, and all the provisions shall, so far as may be, apply accordingly.

Liability in other cases.

57. (*1*) Where a dealer is a firm or an association of persons or a Hindu Undivided Family, and such firm, association or family has discontinued business—

(*a*) the tax payable under this Regulation, by such firm, association or family up to the date of such discontinuance may be assessed as if no such discontinuance had taken place; and

(*b*) every person who was at the time of such discontinuance a partner of such firm, or a member of such association or family, shall, notwithstanding such discontinuance be liable jointly and severally for the payment of tax assessed and penalty imposed and payable by such firm, association or family, whether such tax, interest or penalty has been assessed prior to or after such discontinuance, and subject as aforesaid, the provisions shall, so far as may be, apply as if every such person or partner or member were himself a dealer:

Provided that where the partner of a firm liable to pay such tax, interest or penalty dies, the provisions of sub-section (*4*) shall, so far as may be, apply.

(*2*) Where a change has occurred in the constitution of a firm or an association of persons, the partners of the firm or members of the association as it existed before and as it exists after its reconstitution shall, without prejudice to the provisions of section 54, jointly and severally be liable to pay tax, interest or penalty due from such firm or association for any period before its reconstitution.

(*3*) The provisions of sub-section (*1*) shall, so far as may be, apply where the dealer, being a firm or association of persons is dissolved or, being a Hindu Undivided Family, has effected partition with respect to the business carried on by it and accordingly references in that sub-section to discontinuance shall be construed as references to dissolution or, as the case may be, to partition.

(*4*) Where a dealer liable to pay tax under this Regulation dies, then—

(*a*) if a business carried on by the dealer is continued after his death by his legal representative or any other person, such legal representative or other person, shall be liable to pay the tax, interest or penalty due from the dealer under this Regulation, whether such tax, interest or penalty had been assessed before his death but has remained unpaid, or is assessed after his death;

(*b*) if the business carried on by the dealer is discontinued after his death, his legal representative shall be liable to pay out of the estate of the deceased, to the extent the estate is capable of meeting the charge, the tax, interest or penalty due from the dealer under this Regulation, whether such tax, interest or penalty had been assessed before his death, but has remained unpaid, or is assessed after his death,

and the provisions shall, so far as may be, apply to such legal representative or other person as if he were the dealer himself.

CHAPTER X

AUDIT, INVESTIGATIONANDENFORCEMENT

Audit, investigation and enforce-ment.

58. (*1*) The Commissioner may serve on any person in the prescribed manner a notice informing him that an audit of his business affairs shall be performed and where applicable, that an assessment already concluded under this Regulation may be reopened.

(*2*) A notice served under sub-section (*1*) may require the person on whom it is served, to appear on a date and place specified therein, which may be at his business premises or at a place specified in the notice, to either attend and produce or cause to be produced the इववो व िंबबवनदज ंदक ंसस मअपकमदबम वद ूंीपबी जीम कमंसमत तमसपमे पद ेनचचवतज व िंीपे तमजनतदे (including tax invoices, if any), or to produce such evidence as is specified in the notice.

(*3*) The person on whom a notice is served under sub-section (*1*) shall provide all co-operation and reasonable assistance to the Commissioner as may be required to conduct the proceedings under this section at his business premises.

(*4*) The Commissioner shall, after considering the return, the evidence furnished with the returns, if any, the evidence acquired in the course of the audit, if any, or any information otherwise available to him, either—

(*a*) confirm the assessment under review; or

(*b*) serve a notice of the assessment or re-assessment of the amount of tax, interest and penalty if any pursuant to sections 32 and 33.

(*5*) Any assessment pursuant to an audit of the person's business affairs shall be without prejudice to prosecution for any offence under this Regulation.

(*6*) (*1*) If the Commissioner, having regard to,—

(*a*) the nature and complexity of the business of a dealer; or

(*b*) the interest of the revenue; or

(*c*) volume of accounts; or

(*d*) doubts about the correctness of the accounts; or

(*e*) multiplicity of transactions in the accounts; or

(*f*) specialised nature of business activity; or

(*g*) non-production of all records and accounts; or

(*h*) non-filing of audit report under section 49; or

(*i*) any other reason, is of the opinion that it is necessary so to do,

ीम उंल कपतमबज जीम कमंसमत इल ं दवजपबम पद ूतपजपदह जव हमज ीपे तमबवतके पदबसनकपदह इववो व िंबबवनदजए examined and audited by an accountant or a panel of accountants or any other professional

or panel of professionals nominated by the Commissioner in this behalf and to furnish a report of such examination and audit in the format that he may specify, duly signed and verified by such accountant or panel of accountants or professional or panel of professionals and setting forth such particulars as may be specified.

(*2*) The provision of sub-section (*1*) shall have effect notwithstanding that the accounts of the dealer have been audited under any other provision or any other law for the time being in force or otherwise.

(*3*) Every report under sub-section (*1*) shall be furnished by the dealer to the Commissioner within such period as may be specified by the Commissioner:

Provided that the Commissioner may, on an application made in this behalf by the dealer and for any good and sufficient reason, extend the said period by such further period वत चमतपवके ंे ीम जीपदो पिजरू

Provided further that the aggregate of the period originally fixed and the period or periods so extended shall not, in any case, exceed one hundred eighty days from the date on which the direction under sub-section (*1*) is received by the dealer.

(*4*) The expenses of, and incidental to, the examination and audit of records under sub-section (*1*), (including the remuneration of the accountant or a panel of accountants or professional or panel of professionals) shall be determined and paid by the Commissioner and that determination shall be final.

59. (*1*द्ध ।सस तमबवतकेए इववो व िंबबवनदजए तमहपेजमते ंदक वजीमत कवबनउमदजेए उंपदजंपदमक इल

Inspection of a records.

dealer, transporter or operator of a warehouse shall, at all reasonable times, be open to inspection by the Commissioner.

(*2*) The Commissioner may, for the proper administration and subject to such conditions as may be prescribed, require—

(*a*) any dealer; or

(*b*) any other person, including a banking company, post office, a person who transports goods or holds goods in custody for delivery to, or on behalf of any dealer, □□ ूीव उंपदजंपदे वत ीं ंे पद ीपे चवेे मेे पवद ंदल इववो व िंबबवनदजए

तमहपेजमते वत कवबनउमदजे relating to the business of a dealer, and, in the case of a person which is an organisation, any officer thereof,

to—

(*i*द्ध चतवकनबम इमवितम ीपउ ेनबी तमबवतकेए इववो व िंबबवनदजए तमहपेजमते ंदक वजीमत documents;

(*ii*) answer such questions; and

(*iii*) prepare and furnish such additional information; relating to his activities or to the activities of any other person as the Commissioner may deem necessary.

(*3*) The Commissioner may require a person referred to in sub-section (*2*), to—

(*a*) prepare and provide any documents; and

(*b*) verify the answer to any question; in the manner specified by him.

(*4*) The Commissioner may retain, remove, take copies or extracts, or cause copies or मगजतंबजे जव इम उंकम व िजीम ेंपक तमबवतकेए इववो व िंबबवनदजए तमहपेजमते ंदक कवबनउमदजे ूपजीवनज मिम इल जीम चमतेवद पद ूीवेम बनेजवकल जीम तमबवतकेए इववो व िंबबवनदजए तमहपेजमते ंदक कवबनउमदजे are held.

Power to enter premises and ेमप्रम तमबतके

60. (*1*) All goods kept at any business premises by a dealer, transporter or operator of a warehouse shall at all reasonable times be open to inspection by the Commissioner.

(*2*) Where the Commissioner, upon information in his possession or otherwise has reasonable grounds to believe that any person or dealer is attempting to avoid or evade tax

or is concealing his tax liability in any manner and for the purposes of administration, it is necessary so to do, the Commissioner may—

(*a*) enter and search any business premises or any other place or building;

(*b*) break open the lock of any door, box, locker, safe, almirah or other receptacle for exercising the powers conferred by clause (*a*) where the keys thereof are not readily available;

(*c*द्ध ेमप्रम ंदक तमउवअम ंदल तमबवतकेए इववो व िंबबवनदजए तमहपेजमतेए वजीमत documents or goods;

(*d*द्ध चसंबम उंतो व िपकमदजपपिबंजपवद वद ंदल तमबवतकेए इववो व िंबबवनदजए तमहपेजमते and other documents or make or cause to be made extracts or copies thereof without charge;

(*e*) make a note or any inventory of any such money or goods found as a तमेनसज व िेनबी ेमंतबी वत चसंबम उंतो व िपकमदजपपिबंजपवद वद ेनबी हववकेय ंदक

(*f*) seal the premises including the office, shop, godown, box, locker, safe, almirah or other receptacle.

(*3*द्ध ँीमतम पज पे दवज मिंेपइसम जव तमउवअम ंदल तमबवतकेए इववो व िंबबवनदजए तमहपेजमतेए वजीमत documents or goods, the Commissioner may serve on the owner and any person who is in immediate possession or control thereof, an order that he shall not remove or part with or otherwise deal with them except with the previous permission of the Commissioner.

(*4*) Where any premises have been sealed under clause (*f*) of sub-section (*2*), or an order made under sub-section (*3*), the Commissioner may, on an application made by the owner or the person in occupation or in charge of such shop, godown, box, locker, safe, almirah or other receptacle, permit the de-sealing or release thereof, as the case may be, on such terms and conditions including furnishing of security for such sum in such form and manners as may be prescribed.

(*5*) The Commissioner may requisition the services of any police officer or any public servant, or of both, to assist him for all or any of the purposes specified in sub-section (*2*).

(*6*द्ध ैं◌ंअम ं◌े वजीमतूपेम चतवअपकमक पद जीपे े◌मबजपवदए मअमतल े◌मंतबी वत े◌मप्रनतम उंकम नदकमत this section shall as far as possible be carried out in accordance with the provisions of the

ब्वकम व िब्तपउपदंस च्तवबमकनतमए 1973 तमसंजपदह जव े◌मंतबीमे वत े◌मप्रनतमे उंकम 2 of 1974.

Power to stop, search and detain goods vehicles.

61. (*1*) The Commissioner may, at any check-post or barrier or at any other place, to enable proper administration of this Regulation, require the owner, driver or person in charge of a goods vehicle to stop the vehicle and keep it stationary so long as may be required to search the vehicle, examine the contents therein and inspect all records relating to the goods carried, which are in the possession of such owner, driver or person in charge.

(*2*) The owner, driver or person in charge of a goods vehicle shall carry with him such records as may be prescribed in respect of the goods carried in the goods vehicle and produce the same before any officer in charge of a check-post or barrier or any other officer or any agent as may be empowered by the Commissioner.

(*3*) The owner, driver or person in charge of a goods vehicle entering or leaving Andaman and Nicobar Islands shall also file a declaration containing such particulars in the prescribed form obtainable from the Commissioner and in such manner as may be prescribed, before the officer in charge of a check-post or barrier or before any other officer or agent empowered as aforesaid:

Provided that where the owner, driver or person in charge of a goods vehicle, after filing a declaration at the time of entering Andaman and Nicobar Islands that the goods are meant to be carried to a place outside Andaman and Nicobar Islands, fails, without reasonable cause, to carry such goods outside Andaman and Nicobar Islands within the prescribed period, he shall, in addition to the payment of tax, if any, be liable to a penalty not exceeding two and a half time the tax that would have been payable had the goods been sold inside Andaman and Nicobar Islands or one thousand rupees, whichever is more.

(*4*) The owner, driver or person in charge of the goods vehicle shall, if required, inform the Commissioner of—

(*a*) his name and address;

(*b*) the name and address of the owner of the vehicle;

(*c*) the name and address of the consignor of the goods;

(*d*) the name and address of the consignee of the goods; and

(*e*) the name and address of the transporter.

(*5*) If, on an examination of the contents of a goods vehicle or the inspection of documents relating to the goods carried, the Commissioner has reason to believe that the owner or driver or person in charge of such goods vehicle is not carrying the documents as required by sub-section (*2*) or is not carrying proper and genuine documents or is attempting to evade payment of tax due under this Regulation, he may, for reasons to be recorded in writing, do any one or more of the following, namely:—

(*a*) refuse to allow the goods or the goods vehicle to enter or leave Andaman and Nicobar Islands;

(*b*द्ध े◌मप्रम जीम हववके ं◌दक ं◌दल कवबनउमदजे तमसंजपदह जव जीम हववकेय ं◌दक

(*c*द्ध े◌मप्रम जीम हववके अमीपबसम ं◌दक ं◌दल कवबनउमदजे तमसंजपदह जव जीम हववके अमीपबसमण्

(*6*) Where the owner, driver or the person in charge of the goods vehicle—

(*a*) requests time to adduce evidence of payment of tax in respect of the goods to be detained or impounded; and

(*b*) furnishes security to the satisfaction of the Commissioner in such form, manner and for such amount as may be prescribed,

जीम हववके अमीपबसमए जीम हववके ंदक जीम कवबनउमदजे ेव ेमप्रमक उंल इम तमसमंेमकरू

Provided that where the owner or his agent, driver or person in charge of the goods vehicle exercises the option of paying by way of penalty, a sum equal to three and a half times the tax, which in the opinion of the Commissioner, would be leviable on such goods, if such goods were sold in Andaman and Nicobar Islands, the Commissioner instead of detaining or impounding the goods or the goods vehicle or the documents relating to the goods and goods vehicle shall release the same.

(*7*) The Commissioner may permit the owner, driver or person in charge of goods अमीपबसम जव तमउवअम ंदल हववके वत हववके अमीपबसम ेमप्रमक नदकमत ेनइ.ेमबजपवद ;*4*) subject to an undertaking—

(*a*) that the goods and goods vehicle shall be kept in the office, godown or other place within Andaman and Nicobar Islands, belonging to the owner of the goods vehicle and in the custody of such owner; and

(*b*) that the goods shall not be delivered to the consignor, consignee or any other person without the approval in writing of the Commissioner, and for this purpose जीम चमतेवद पद बींतहम व िजीम हववके अमीपबसम ेंीसस नितदपी ंद ंनजीवतप्रंजपवद तिवउ जीम वूदमत व िजीम हववके अमीपबसम ंनजीवतप्रपदह ीपउ जव हपअम ेनबी नदकमतजंापदह वद ीपे इमींसण्ि

(*8*द्ध ैंअम ंे वजीमतूपेम चतवअपकमक पद जीपे ेमबजपवदए मअमतल ेमंतबी वत ेमप्रनतम उंकम नदकमत

this section shall as far as possible be carried out in accordance with the provisions of the ब्वकम व िब्तपउपदंस च्तवबमकनतमए 1973 तमसंजपदह जव ेमंतबीमे वत ेमप्रनतमे उंकम नदकमत जींज ब्वकमण्

2 of 1974.

(*9*) Nothing contained in this section shall apply to the rolling stock as defined in the Railway Act, 1989.

24 of 1989.

Custody and release of records.

62. (*1*द्ध ॅंीमतम जीम ब्वउउपेेपवदमत ेमप्रमे ंदल इववो व िंबबवनदज वत वजीमत shall give the dealer or the person present on his behalf, as the case may be, a receipt for same and obtain acknowledgement of the receipt so given to him:

च्तवअपकमक जींज प िजीम कमंसमत वत चमतेवद तिवउ ूंीवेम बनेजवकल जीम इववो व िंबबवनदज वत वजीमत कवबनउमदजे ंतम ेमप्रमक तमनिमे जव हपअम ंद ंबादवूसमकहमउमदजए जीम ब्वउउपेेपवदमत उंल leave the receipt at the premises and record this fact.

(*2*द्ध ज्ीम ब्वउउपेेपवदमत ेंीसस ाममच पद ीपे बनेजवकल जीम इववो व िंबबवनदजए तमहपेजमतेए वजीमत कवबनउमदजे ेमप्रमक नदकमत ेमबजपवद 60 वित ं चमतपवक दवज मगबममकपदह वदम लमंतए ंदक जीमतमंजिमत ेंीसस तमजनतद जीम ेंउम जव जीम कमंसमत वत चमतेवद तिवउ ूंीवेम बनेजवकल वत चवूमत जीमल ूमतम ेमप्रमकरू

च्तवअपकमक जींज जीम ब्वउउपेेपवदमत उंलए इमवितम तमजनतदपदह जीम इववो व िंबबवनदजए तमहपेजमते and other documents, require the dealer or the person, as the case may be, to give a written नदकमतजंापदह जींज जीम इववो व िंबबवनदजए तमहपेजमते ंदक वजीमत कवबनउमदजे ेंीसस इम चतमेमदजमक whenever required by the Commissioner for any proceedings under this Regulation:

Provided further that the Commissioner shall, when requested, allow the person whose इववो व िंबबवनदजए तमहपेजमते ंदक कवबनउमदजे ींअम इममद ेमप्रमकए तमंेवदंइसम ंबबमेे जव जीम इववो of account, registers and documents for the purpose of inspection and shall allow the person the opportunity to make copies thereof at the person's own expense:

च्तवअपकमक ंसेव जींज जीम चमतपवक व िबनेजवकल व िजीम इववो व ि्ंबबवनदजए तमहपेजमते ंदक वजीमत कवबनउमदजे ेमप्रमक नदकमत ेमबजपवद 60 उंल इम मगजमदकमक इमलवदक वदम लमंत प ि्ंदल चतवबममकपदहे नदकमत this Regulation are pending or for reasons to be recorded by the Commissioner in writing.

Custody, return and disposal of goods, goods vehicle and security.

63. (*1*द्ध ॅंीमतम जीम ब्वउउपेेपवदमत ेमप्रमे ंदल हववके वत हववके अमीपबसमए ंीम ेंीं्सस हपअम जीम dealer, person in charge of the goods vehicle or a person present on his behalf, as the case may be, a receipt for the same and obtain acknowledgement of the receipt so given to him:

refuses to give an acknowledgement, the Commissioner may leave the receipt in his presence and record this fact.

(*2*) The Commissioner—

(*a*द्ध ेंीं्सस ाममच ंदल हववके वत हववके अमीपबसम ेमप्रमक नदकमत ेमबजपवद 61 पद ंीपे बनेजवकलय

(*b*) may retain them for such time as he considers reasonable; and

(*c*) subject to the provisions of sub-section (*3*), shall return the goods or goods अमीपबसम जव जीम कमंसमत वत वजीमत चमतेवद तिवउ ूंीवेम बनेजवकल वत चवूमत जीमल ूमतम ेमप्रमकण्

(*3*) Where the Commissioner—

(*a*द्ध ीं्ं ेमप्रमक ंदल हववकेय

(*b*द्ध ीं्ं ेमप्रमक ं हववके अमीपबसमय वत

(*c*) holds any goods as security for the performance of an obligation under this Regulation,

the Commissioner may, not sooner than one month after the service of notice on—

(*i*द्ध जीम चमतेवद तिवउ ूंीवउ जीम हववके ूमतम ेमप्रमकय

(*ii*द्ध जीम चमतेवद तिवउ ूंीवउ जीम हववके अमीपबसम ूं्ं ेमप्रमकय

(*iii*) the person for whom the security was given; and

(*iv*) any person against whom the security is to be enforced,

of his intention to sell the goods, direct the auction of such goods or goods vehicle to meet any arrears of tax, interest or penalty owed under this Regulation.

(*4*) An auction of goods or a goods vehicle shall be carried out in the manner prescribed for the sale of property held by the Commissioner.

Detention of goods pending disclosure.

64. (*1*) If any person on being required by the Commissioner, fails to give any information in respect of any goods in his possession or fails to permit the inspection thereof. जीम ब्वउउपेेपवदमत उंल ेमप्रम ंदल हववके पद ंीपे बनेजवकल वत चवेेमेंपवद default is committed.

(*2*द्ध ज्ंीम ेमप्रनतम ेंीं्सस तमउंपद पद वितबम नदजपस पज पे तमअवामक वत जीम चमतेवद बवदबमतदमक furnishes the information required or makes proper arrangements for the inspection of the goods, whichever occurs first.

Obligation to provide reasonable assistance.

65. Every person shall provide co-operation and reasonable assistance to the Commissioner as may be required to conduct the Commissioner's activities under the Regulation.

CHAPTER XI

VALUEADDEDTAXAUTHORITIESANDAPPELLATETRIBUNAL

Value Added Tax Authorities.

66. (*1*) For the purposes of carrying out this Regulation, the Government shall appoint a person to be the Commissioner of Value Added Tax.

(*2*) The Government may, to assist the Commissioner in the administration of this Regulation, appoint as many Special Commissioners of Value Added Tax, Value Added

जंग व्ःिपबमते ंदक ेनबी वजीमत चमतेवदे ूपजी ेनबी कमेपहदंजपवदे ंे जीम ळवअमतदउमदज जीपदो necessary (herein this Chapter referred to as "Value Added Tax Authority").

(*3*) The Commissioner and the Value Added Tax Authorities shall exercise such powers as may be conferred, and perform such duties as may be required, by or under this Regulation.

(*4*) The powers exercised by the Value Added Tax Authorities for the making of assessments of tax, the computation and imposition of penalties, the computation of interest due or owed, the computation of the entitlement and the amount of any refund, the determination of specific questions under section 84, the making of general rulings under section 85, and the conduct of audit or investigations shall, for the purposes of this Regulation, be the administrative functions.

Powers and responsibilities of the Commissioner.

67. (*1*) The Commissioner shall have responsibility for the due and proper administration and shall have jurisdiction over the whole of Andaman and Nicobar Islands.

(*2*) Subject to the provisions of sub-section (*3*) the Commissioner may, from time to time, issue such orders, instructions and directions to any Value Added Tax Authorities as ीम जीपदो पिज वित जीम कनम ंदक चतवचमत ंकउपदपेजतंजपवद ंदक ंसस ेनबी चमतेवदे मदहंहमक पद जीम administration shall observe and follow such orders, instructions and directions of the Commissioner.

(*3*) No orders, instructions or directions may be issued by the Commissioner to a person exercising the power to determine—

(*a*) a particular objection made or to be made under section 74; or

(*b*) a particular question made under section 84,

so as to require the person to determine the objection or answer the question of a particular person in a particular manner.

(*4*) Nothing in sub-section (*3*) shall prevent the Commissioner from issuing general orders, instructions and directions to any person who determines objections made under section 74 or answers questions made under section 84 about the manner of determining classes of objections or answering classes of questions.

Delegation of Commissioner's powers.

68. (*1*) Subject to such restrictions and conditions as may be prescribed, the Commissioner may delegate any of his powers under this Regulation to any Value Added Tax Authorities.

(*2*) Where the Commissioner delegates his powers under Chapter X, the delegate shall carry and produce on demand evidence in the prescribed form of the delegation of these powers when exercising the powers.

(*3*) Where the Commissioner has delegated a power to a Value Added Tax Authority, the Commissioner may supervise, review and rectify any decision made or action taken by that Authority.

(*4*) Notwithstanding any law or doctrine to the contrary, the power delegated by the Commissioner to a person to determine an objection under section 74 may be exercised by that person, even though the person determining the objection is equal in rank to the person whose decision is under objection.

Change of an incumbent of an office.

69. Whenever in respect of any proceeding under this Regulation the Commissioner or any Value Added Tax Authority is succeeded by another person—

(*a*) no delegation of power made by the former incumbent shall be revoked by virtue of the succession; and

(*b*) the person so succeeding may continue the proceeding from the stage at which the proceeding was left by his predecessor.

Power of Commissioner to make notifications.

70. (*1*) The Commissioner may notify and publish any forms which may be necessary for the reporting of information to the Value Added Tax Authorities.

(*2*) Where the Commissioner has notified a form for a particular purpose, all persons

shall be required to report the information using the form, in such manner as may be notified by him.

(*3*) Where in his opinion it is necessary or convenient to do so, the Commissioner may issue notifications for carrying out the purposes:

Provided that any notification shall not be inconsistent with this Regulation or any rules or regulations made pursuant to it.

(*4*) In particular and without prejudice to the generality of the foregoing power, a notification issued by the Commissioner may stipulate all or any of the matters which in the opinion of the Commissioner are necessary or convenient for the proper administration.

(*5*) Every notification issued by the Commissioner under this Regulation shall be published in the Official Gazette, and shall not have any effect prior to such publication.

Persons to be public servants.

71. The Commissioner, Value Added Tax Authorities and all members of the Tribunal shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code. 45 of 1860.

Immunity from civil suit.

72. No suit or proceeding shall be brought in any civil court against the Government, the Commissioner, any Value Added Tax Authorities, or member of the Appellate Tribunal for anything done or intended to be done in good faith under this Regulation or the rules made thereunder.

Appellate Tribunal.

73. (*1*) The Government shall, as soon as may be after the commencement of this त्महनसंजपवदए बवदेजपजनजम ंद ।चचमससंजम ज्तपइनदंस बवदेपेजपदह व िवदम वत fit, to exercise the powers and discharge the functions conferred on the Appellate Tribunal by or under this Regulation or may request the Central Government to designate any Tribunal of the nearby State to function as Appellate Tribunal for the purpose:

Provided that where the Appellate Tribunal consists of one member, that member shall be a person who has held a civil judicial post for at least five years or who has been a member of the Indian Legal Service (not below Grade III) for at least three years or who has been in practice as an advocate for at least ten years, and where the Appellate Tribunal consists of more than one member, one such member shall be a person qualified as aforesaid.

(*2*) Where the number of members of the Appellate Tribunal is more than one, the Government shall appoint one of those members to be the Chairperson of the Appellate Tribunal.

(*3*) Subject to the provisions of sub-section (*1*), the qualifications and other conditions of service of the member or members constituting the Appellate Tribunal and the period for which such member or members shall hold office, shall be such as may be determined by the Government.

(*4*) Any vacancy in the Appellate Tribunal shall be filled up by the Government as soon as practicable.

(*5*) Where the number of members of the Appellate Tribunal is more than one and if the members differ in opinion on any point, the point shall be decided according to the opinion of the majority, if there is a majority, but if the members are equally divided, the decision of the Chairperson of the Appellate Tribunal thereon shall be final.

(*6*) Subject to the previous sanction of the Government, the Appellate Tribunal shall, for the purpose of regulating its procedure and disposal of its business, make Regulations consistent with the provisions and the rules made thereunder.

(*8*) The Appellate Tribunal shall, for the purpose of discharging its functions, have all the powers which are vested in the Commissioner under section 75 and any proceeding before the Appellate Tribunal shall be deemed to be a judicial proceeding within the meaning

45 of 1860. of sections 193 and 228, and for the purposes of section 196 of the Indian Penal Code and the Appellate Tribunal shall be deemed to be a Civil Court for all the purposes of section

2 of 1974. 195 and Chapter XXVI of the Code of Criminal Procedure, 1973.

(*9*) Notwithstanding anything to the contrary contained in this section, the Government, may, by a notification in the Official Gazette, constitute benches comprising of one or more members, subject to such conditions and regulations as may be laid down in the notification.

CHAPTER XII

OBJECTIONS, APPEALS, DISPUTESANDQUESTIONS

Objections.

74. (*1*) Any person who is dissatisfied with—

(*a*) an assessment made under this Regulation (including an assessment under section 33); or

(*b*) any other order or decision made under this Regulation,

may make an objection against such assessment, or order or decision, as the case may be, to the Commissioner:

Provided that no objection may be made against a non-appealable order as defined in section 79:

Provided further that no objection against an assessment shall be entertained unless the amount of tax, interest or penalty assessed that is not in dispute has been paid failing which the objection shall be deemed to have not been filed:

Provided also that the Commissioner may, after giving to the dealer an opportunity of being heard, may direct the dealer to deposit an amount deemed reasonable, out of the amount under dispute, before such objection is entertained:

Provided also that only one objection may be made by the person against any assessment, decision or order:

Provided also that in the case of an objection to an amended assessment, order, or decision, an objection may be made only to the portion amended:

Provided also that no objection shall be made to the Commissioner against an order made under section 84 or section 85 if the Commissioner has not delegated his power under the said sections to other Value Added Tax Authorities.

(*2*) A person who is aggrieved by the failure of the Commissioner to reach a decision or issue any assessment or order, or undertake any other procedure under this Regulation, within six months after a request in writing was served by the person, may make an objection against such failure.

(*3*) An objection shall be in writing in the prescribed form and shall state fully and in detail the grounds upon which the objection is made.

(*4*) The objection shall be made—

(*a*) in the case of an objection made under sub-section (*1*), within two months of the date of service of the assessment, or order or decision, as the case may be; or

(*b*) in the case of an objection made under sub-section (*2*), not earlier than six months and not later than eight months after the written request was served by the person:

Provided that where the Commissioner is satisfied that the person was prevented for sufficient cause from lodging the objection within the time specified, he may accept an objection within a further period of two months.

(*5*) The Commissioner shall conduct its proceedings by an examination of the assessment, or order or decision, as the case may be, the objection and any other document or information as may be relevant:

Provided that where the person aggrieved, requests a hearing in person, the person shall be afforded an opportunity to be heard in person.

(*6*) Where a person has requested a hearing under sub-section (*5*) and the person fails to attend the hearing at the time and place stipulated, the Commissioner shall proceed and determine the objection in the absence of the person.

(*7*) Within three months after the receipt of the objection, the Commissioner shall either—

(*a*) accept the objection in whole or in part and take appropriate action to give effect to the acceptance (including the remission of any penalty assessed either in whole or in part); or

(*b*) refuse the objection or the remainder of the objection, as the case may be; and in either case, serve on the person objecting, a notice in writing of the decision and the reasons for it, including a statement of the evidence on which it is based:

Provided that where the Commissioner within three months of the making of the objection notifies the person in writing, he may continue to consider the objection for a further period of two months:

Provided further that the person may, in writing, request the Commissioner to delay considering the objection for a period of three months for the proper preparation of its position, in which case the period of the adjournment shall not be counted towards the period by which the Commissioner shall reach his decision.

(*8*) Where the Commissioner has not notified the person of his decision within the time specified under sub-section (*7*), the person may serve a written notice requiring him to make a decision within fifteen days.

(*9*) If the decision has not been made by the end of the period of fifteen days after being given the notice referred to in sub-section (*8*), then, at the end of that period, the Commissioner shall be deemed to have allowed the objection.

(*10*) (*a*) In case of revision of any order under this section or any decision in objection is passed under thisRegulation, rules or notifications made thereunder, by any officer or

person subordinate to him, the Commissioner may, of his own motion or upon information received by him, call for the record of such order and examine whether—

(*i*) any turnover of sales has not been brought to tax or has been brought to tax at lower rate, or has been incorrectly classified, or any claim is incorrectly granted or that the liability to tax is understated; or

(*ii*) any case, the order is erroneous, insofar as it is prejudicial to the interest of revenue, and after examination, the Commissioner may pass an order to the best of his judgment, where necessary.

(*b*) (*i*) For the purpose of the examination and passing of the order, the Commissioner may require, by service of notice, the dealer to produce or cause to be produced before him □ ेनबी इववो व ि◌ंबबवनदज ◌ंदक वजीमत कवबनउमदजे वत मअपकमदबम ◌ंे ◌ीम जीपदो दमबमे◌े◌ंतल वित जीम purposes aforesaid.

(*ii*) Notwithstanding anything to the contrary contained in section 34, no order under this section shall be passed after the expiry of four years from the end of the year in which the order passed by the subordinate officer has been served on the dealer.

(*iii*) Notwithstanding anything to the contrary contained in section 34, where in respect of any order or part of the said order passed by the subordinate officer, an order has been passed by any authority hearing the objection or any appellate authority including the Tribunal or such order is pending for decision in objection or in appeal, or an objection or an appeal is filed, then, whether or not the issues involved in the examination have been decided or raised in the objection or the appeal, the Commissioner may, within five years of the end of the year in which the said order passed by the subordinate officer has been served on the dealer, make a report to the said objection hearing authority or the appellate authority including the Tribunal regarding his examination or the report or the information received by him and the said appellate authority including the Tribunal shall thereupon, after giving the dealer a reasonable opportunity of being heard, pass an order to the best of its judgment, where necessary.

(*c*) If the Commissioner has initiated any proceeding before an appropriate forum against an issue which is decided against the revenue by an order of the Tribunal, then the Commissioner may, in respect of any order, other than the order which is the subject-matter of the order of the Tribunal, call for the record, conduct an examination as aforesaid, record ीपे पिदकपदहेए बंसस वित जीम ेंपक इववो व िंबबवनदज ंदक वजीमत मअपकमदबम ंदक चेे ंद वतकमत ंे provided for under this section as if the issue was not so decided against the revenue, but shall stay the recovery of the dues including the interest or penalty, insofar as they relate to such issue until the decision by the appropriate forum and after such decision, may modify the order of revision, if necessary.

(*d*) No proceedings under this section shall be entertained on any application made by a dealer or a person.

(*e*) Notwithstanding anything contained in any judgment, decree or order of any court, the provisions of this Regulation, other than sections 99 to 101, shall be deemed to have come into force with effect from the 1st day of July, 2017.

(*11*)(*a*) Notwithstanding anything to the contrary contained in section 34, the Commissioner may, at any time within four years from the end of the year in which any order passed by him has been served, on his own motion, rectify any mistake apparent on record and shall within the said period or thereafter rectify any such mistake which has been brought to his notice within the said period, by any person affected by such order.

(*b*) The provisions of sub-section (*1*) shall apply to the rectification of a mistake by the appellate authority or an objection hearing authority as they apply to the rectification of mistake by the Commissioner:

Provided that where any matter has been considered and decided in any proceedings by way of objection or appeal or review in relation to any order or part of an order, the authority passing the order on objection, appeal or review, may, notwithstanding anything contained in thisRegulation, rectify the order or part of the order on any matter other than the matter which has been so considered and decided.

(*c*) Where any such rectification has the effect of reducing the amount of the tax or penalty or interest, the Commissioner shall refund any amount due to such person in accordance with the provisions.

(*d*) Where any such rectification has the effect of enhancing the amount of the tax or penalty or interest or reducing the amount of refund, the Commissioner shall recover the amount due from such person in accordance with the provisions.

(*e*) Save as provided in the foregoing sub-sections, and subject to such rules as may be prescribed, any assessment or re-assessment made or order passed under this Regulation or the rules made thereunder by any person appointed under section 66 may be reviewed by such person *suo motu* or upon an application made in that behalf.

Power of Commissioner and other authorities to take evidence on oath, etc.

75. (*1*) The Commissioner or any person determining objections under section 74, for the purposes of this Regulation, have the same powers as are vested in a court under the Code of Civil Procedure, 1908 when trying a suit, in respect of the following matters, namely:— 5 of 1908.

(*a*) enforcing the attendance of any person and examining him on oath or affirmation;

(*b*) compelling the production of accounts and documents; and

(*c*) issuing commissions for the examination of witnesses and any proceeding under this Regulation before the Commissioner or person determining objections under section 74 shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228 and for the purposes of section 196 of the Indian Penal Code. 45 of 1860.

(*2*) Subject to any rules made in this behalf, the Commissioner or any person कमजमतउपदपदह वइरमबजपवदे नदकमत ेमबजपवद 74 उंल पउचवनदक ंदक तमजंपद

पद ीपे बनेजवकलए ंदल इववो of account or other documents produced before him in any proceedings under this Regulation until such proceedings are concluded:

Provided that the Commissioner or the person determining an objection under ेमबजपवद 74 ेंीसस दवज पउचवनदक ंदल इववो व िंबबवनदज वत वजीमत कवबनउमदजे ूपजीवनज तमबवतकपदह in writing his reasons for so doing.

Appeals to Appellate Tribunal.

76. (*1*) Any person aggrieved by a decision made by the Commissioner under sections 74, 84 and 85 may appeal to the Appellate Tribunal against such decision:

Provided that no appeal may be made against a non-appealable order under section 79.

(*2*) Subject to the provisions of section 77, no appeal shall be entertained unless it is made within two months from the date of service of the decision appealed against.

(*3*) Every appeal made under this section shall be in form, verified in such manner and shall be accompanied by such fee as may be prescribed.

(*4*) No appeal against an assessment shall be entertained by the Appellate Tribunal unless the appeal is accompanied by satisfactory proof of the payment of the amount in dispute and any other amount assessed as due from the person:

च्तवअपकमक जींज जीम ।चचमससंजम ज्तपइनदंस उंलए प िपज जीपदो पिजए वित तमंेवदे जव इम तमबवतकमक पद writing, entertain an appeal against such order without payment of some or all of the amount in dispute, on the appellant furnishing in the prescribed manner security for such amount as it may direct:

Provided further that no appeal shall be entertained by the Appellate Tribunal unless it is satisfied that such amount as the appellant admits to be due from him has been paid.

(*5*) In proceedings before the Appellate Tribunal—

(*a*) the person aggrieved shall be limited to disputing only those matters stated in the objection;

(*b*) the person aggrieved shall be limited to arguing only those grounds stated in the objection; and

(*c*) the person aggrieved may be permitted to adduce evidence not presented to the Commissioner for good and sufficient reasons.

(*6*) The Appellate Tribunal shall—

(*a*) in the case of an assessment, confirm, reduce, or annul the assessment (including any penalty and interest imposed);

(*b*) in the case of any other decision of the Commissioner, affirm or reject the decision; or

(*c*द्ध चंेे ेनबी वजीमत वतकमत वित जीम कमजमतउपदंजपवद व िजीम पेेनम ंे पज जीपदो पिजरू

Provided that the Appellate Tribunal shall give reasons in writing for its decision which shall include its findings on material questions of fact and the evidence or other material on which those findings were based.

(*7*) The Appellate Tribunal shall use its best endeavours to make a final resolution of the matter before it and for this purpose may make a decision in substitution for the order in dispute, including the exercise or re-exercise of any discretion or power vested in the Commissioner.

(*8*) The Appellate Tribunal shall not set aside an assessment and remit the matter to the Commissioner for a further assessment, unless it has first—

(*a*) advised the aggrieved person of the proposed order;

(*b*) offered the person the opportunity to adduce such further evidence before it as might assist the Appellate Tribunal to reach a final determination.

(*9*) Where the Appellate Tribunal sets aside an assessment and remits the matter to the Commissioner for a further assessment, the Appellate Tribunal shall at the same time order the Commissioner to refund to the person some or all of the amount in dispute:

Provided that where no order is made, it shall be presumed that the Appellate Tribunal has ordered the refund of the amount in dispute.

(*10*) Where a person has failed to attend the hearing at the time and place stipulated, the Appellate Tribunal may adjourn the proceedings, strike out the appeal or proceed to make an order determining the objection in the absence of the person.

(*11*) Save as provided in section 81 and sub-section (*12*), an order passed by the Appellate Tribunal on an appeal shall be final.

(*12*) The Appellate Tribunal may rectify any mistake or error apparent from the record of its proceedings.

(*13*) Any order passed by the Appellate Tribunal may be reviewed *suo motu* or upon an application made in that behalf:

Provided that before any order which is likely to affect any person adversely is passed, such person shall be given a reasonable opportunity of being heard.

Extension of period of limitation in certain cases

77. (*1*) The Appellate Tribunal may admit an appeal under section 76 after the period of limitation laid down in that section, if the appellant satisfies the Appellate Tribunal that he had sufficient cause for not preferring the appeal within such period.

(*2*) In computing the period laid down under sections 76 and 81, the provisions of sections 4 and 12 of the Limitation Act, 1963, shall, so far as may be, apply. 36 of 1963.

(*3*) In computing the period of limitation prescribed by or under any provision, or the rules made thereunder, other than section 76 or 81, any period during which any proceeding is stayed by an order or injunction of any court shall be excluded.

Burden of proof.

78. The burden of proving any matter in issue in proceedings under section 74, or before the Appellate Tribunal which relates to the liability to pay tax or any other amount under this Regulation shall lie on the person alleged to be liable to pay the amount.

Bar on appeal or objection against certain orders.

79. (*1*) No objection or appeal shall lie against—

(*a*) a decision of the Commissioner to make an assessment of tax or penalty;

(*b*) a notice requiring a person to furnish a return;

(*c*) a notice issued under section 58 or section 59;

(*d*) a decision of the Commissioner to notify any matter;

(*e*) a notice asking a dealer to show cause why he should not be prosecuted for an offence under this Regulation;

(*f*द्ध ं कमबपेपवद तमसंजपदह जव जीम ेमप्रनतम वत तमजमदजपवद व ि इववो व ि ंबबवनदजए तमहपेजमते and other documents;

(*g*) a decision sanctioning a prosecution under this Regulation;

(*h*) an interim decision made in the course of any proceedings;

(*i*) a decision of the Commissioner touching on the internal administration of the Value Added Tax Authorities;

(*j*) an assessment issued by the Commissioner to give effect to an order of the Appellate Tribunal or a court; or

(*k*) a notice served on the person under sub-section (*10*) of section 84 referred to as "non-appealable orders".

(*2*) Save as provided in clause (*j*) of sub-section (*1*), nothing contained in sub-section (*1*) shall prevent the person from objecting to the amount or the obligation to pay any amount assessed by the Commissioner under section 74.

Assessment proceedings, etc., not to be invalid on certain grounds.

80. (*1*) No assessment, notice, summons or other proceedings made or issued or taken or purported to have been made or issued or taken in pursuance of any of the provisions or under the earlier law shall be invalid or shall be deemed to be invalid merely by reason of any mistake, defect or omission in such assessment, notice, summons or other proceedings, if such assessment, notice, summons or other proceedings are in conformity with or according to the intent and purposes or any earlier law.

(*2*) The service of any notice, order or communication shall not be called in question if the said notice, order or communication, as the case may be, has already been acted upon by the dealer or person to whom it is issued or which service has not been called in question at or in the earliest proceedings commenced, continued or finalised pursuant to such notice, order or communication.

(*3*) No assessment made under this Regulation shall be invalid merely on the ground that the action could also have been taken by any other authority under any other provisions.

Appeal to High Appellate Court.

81. (*1*) An appeal shall lie to the High Court from every order passed by the Tribunal in appeal under this Regulation, if the High Court is satisfied that the case involves a substantial question of law.

(*2*) The Commissioner or the other party aggrieved by any order passed by the Appellate Tribunal may file an appeal to the High Court and such appeal under this sub-section shall be—

(*a*) filed within sixty days from the date on which the order appealed against is received by the Commissioner or served upon the other party:

Provided that the High Court may entertain an appeal after the expiry of the period of sixty days, if it is satisfied that there was sufficient cause for not filing it within that period:

Provided further that the above proviso shall be deemed to have come into force with effect from the 1st day of April, 2005;

(*b*) in the form of a memorandum of appeal precisely stating therein the substantial question of law involved.

(*3*) Where the High Court is satisfied that a substantial question of law is involved in any case, it shall formulate that question.

(*4*) The appeal shall be heard only on the question so formulated, and the respondents shall, at the hearing of the appeal, be allowed to argue that the case does not involve such question:

Provided that nothing in this sub-section shall be deemed to take away or abridge the power of the court to hear, for reasons to be recorded, the appeal on any other substantial question of law not formulated by it, if it is satisfied that the case involves such question.

(*5*) The High Court shall decide the question of law so formulated and deliver such judgment thereon containing the grounds on which such decision is founded and may award such cost as it deems fit.

(*6*) The High Court may determine any issue which—

(*a*) has not been determined by the Appellate Tribunal;

(*b*) has been wrongly determined by the Appellate Tribunal, by reason of a decision on such question of law as is referred to in sub-section (*1*).

(*7*) Where an appeal has been filed before the High Court, it shall be heard by a bench of not less than two judges of the High Court, and shall be decided in accordance with the opinion of such judges or of the majority, if any, of such judges.

(*8*) Where there is no such majority, the judges shall state the point of law upon which they differ and the case shall, then, be heard upon that point only by one or more

of the other judges of the High Court and such point shall be decided according to the opinion of the majority of the judges who have heard the case including those who first heard it.

(*9*) Save as otherwise provided in thisRegulation, the provisions of the Code of Civil 5 of 1908. Procedure, 1908, relating to appeals to the High Court shall, as far as may be, apply in the case of appeals under this section.

Appearance before any authority in proceedings.

82. (*1*) Any person, who is entitled or required to attend before any authority in connection with any proceedings under thisRegulation, may attend—

(*a*) by a person authorised by him in writing in this behalf, being a relative or a person regularly employed by him; or

(*b*) by a legal practitioner or chartered accountant or cost accountant or company secretary who is not disqualified by or under sub-section (*2*); or

(*c*) by a Value Added Tax practitioner who possesses the prescribed qualifications and is entered in the list, which the Commissioner shall maintain in that behalf, and who is not disqualified by or under sub-section (*2*).

(*2*) The Commissioner may, for reasons to be recorded in writing, disqualify for a period from appearing before any such authority, any legal practitioner, chartered accountant, cost accountant, company secretary or Value Added Tax practitioner—

(*a*) who has been dismissed from government service; or

(*b*) who, being a legal practitioner or chartered accountant, or cost accountant or company secretary is found guilty of misconduct in connection with any proceedings under this Regulation by an authority empowered to take disciplinary action against the members of the profession to which he belongs; or

(*c*) who, being a Value Added Tax practitioner, is found guilty of such misconduct by the Commissioner.

(*3*) Any person who is disqualified under this section may, within one month of the date of disqualification, appeal to the Government to have the disqualification cancelled.

(*4*) The decision of the Commissioner shall not take effect until one month of the making thereof or when an appeal is preferred, until the appeal is decided.

(*5*) The Commissioner may, at any time, *suo motu* or on an application made to him in this behalf, revoke any decision made against any person under sub-section (*2*) and thereupon such person shall cease to be disqualified.

Bar of suits in civil courts.

83. No suit or proceeding shall be brought in any civil court to set aside or modify any assessment made or any order passed under this Regulation or the rules made thereunder.

Determination of specific questions.

84. (*1*) If any determinable question arises, otherwise than in proceedings before a court, a person may apply in the prescribed manner to the Commissioner for the

(*2*) Subject to sub-section (*3*), an application for the determination of a determinable question may be made in respect of a proposed transaction, a transaction that is being undertaken, or a transaction has been concluded.

(*3*) An application for the determination of a determinable question may not be made after—

(*a*) the Commissioner has commenced the audit of the person pursuant to section 58; or

(*b*) the Commissioner has issued an assessment for the tax period in which the transaction that is the subject of the determinable question occurred.

(*4*) For the purposes of this section, the following shall be determinable questions—

(*a*) whether any person, society, club or association or any firm or any branch or department of any firm is or would be a dealer;

(*b*) whether any dealer is or would be required to be registered under this Regulation;

(*c*) the amount of the taxable quantum of a dealer for a period;

(*d*) whether a transaction is or would be a sale, or requires an adjustment to be made under section 8 arising out of a sale;

(*e*द्ध ूीमजीमत ं जतंदेंबजपवद पे वत ूवनसक इम पद जीम दंजनतम व िूवतो बवदजतंबजए वत transfer of right to use any goods;

(*f*) whether a sale is not liable to tax under section 7;

(*g*) whether a sale is exempt from tax under section 6;

(*h*) the sale price of a transaction;

(*i*) the proportion of the turnover or turnover of purchases of a dealer which arises in a tax period, and the time at which an adjustment to tax or tax credit arises;

(*j*) whether any transaction is or would be the import of goods;

(*k*) the value of any goods imported into Andaman and Nicobar Islands; (*l*) the rate of tax that is payable on a sale or import of goods and the classification of the goods under the Schedules;

(*m*) whether a transaction is the purchase of goods, or requires an adjustment to be made under section 10 arising out of a purchase;

(*n*) the amount of any tax credit to which the dealer is entitled in respect of a purchase or import of goods;

(*o*) the amount of any tax credit in respect of any used goods purchased by a dealer;

(*p*) the location of any sale or purchase;

(*q*) the application of a composition scheme in the circumstances of a dealer; or

(*r*) the tax period of a dealer.

(*5*) The Commissioner shall make the determination within such period as may be prescribed.

(*6*) Where—

(*a*) the Commissioner fails to make a determination under this section within the time prescribed under sub-section (*5*);

(*b*) the person thereafter implements the transaction which is the subject of the application and in the manner described in the application; and

(*c*) the person has, in the application for the determination of the determinable question, indicated the answer to the determinable question which the person believes to be correct (in this section called the "proposed determination"), the Commissioner shall be deemed for the purposes to have made and issued to the person on the day after the expiry of the prescribed period, a determination of the determinable question in the terms of the proposed determination.

(*7*) The Commissioner may—

(*a*) direct that the determination shall not affect the liability of any person under this Regulation with respect to any transaction effected prior to the determination;

(*b*) limit the period for which the determination will apply;

(*c*) limit the transactions to which the determination will apply; and

(*d*) impose such other limitations or restrictions on the determination as seem appropriate.

(*8*) If any such question arises from any order already passed under this Regulation or under the Port Blair Municipal Octroi Tax Bye-Laws as then in force in Andaman and Nicobar Islands, no such question shall be entertained for determination under this section but such question may be raised in an objection or appeal against such order.

(*9*) Where—

(*a*) the Commissioner has issued to a person a determination in respect of a particular transaction; and

(*b*) the person implements the transaction based on the determination issued to him under this section and in the manner described in the application,

no assessment may be raised by the Commissioner against that person which is inconsistent with the determination and no penalty may be imposed on the person if the determination is later held incorrect.

(*10*) The Commissioner may, by notice served on the person, withdraw or qualify a determination issued under this section but such withdrawal or qualification shall not affect the entitlement of any person to rely on the determination with respect to any transaction or action which he has commenced or which he has completed prior to the withdrawal or qualification.

Ruling on general questions.

85. (*1*) The Commissioner may, by notification in the Official Gazette, publish his ruling on the answer to any question involving the interpretation or application to a class of persons or class of transactions.

(*2*) A ruling issued by the Commissioner under this section may be issued subject to such restrictions and conditions as the Commissioner may deem fit.

(*3*) The ruling shall be treated as coming into effect on the date stated in the ruling (which may be a date prior to the publication of the ruling) or, if no date is stated in the ruling, on the date of publication of the Official Gazette.

(*4*) Where—

(*a*) the Commissioner has published a ruling in respect of a class of persons or transactions;

(*b*) a person implements a transaction or undertakes any action based on the ruling;

(*c*) the ruling has, at the time of implementing the transaction or undertaking the action, not been withdrawn by the Commissioner; and

(*d*) according to the terms of the ruling, the ruling purports to apply to the transaction or action undertaken by the person,

no assessment which is inconsistent with the ruling, may be raised by the Commissioner against that person and no penalty may be imposed on the person if the ruling is later held incorrect.

(*5*) The Commissioner may, by notification published in the Official Gazette, withdraw or qualify a ruling already issued under this section but such withdrawal or qualification shall not affect the entitlement of any person to rely on the ruling with respect to any transaction or action commenced or completed by him prior to such withdrawal or qualification.

CHAPTER XIII

PENALTIESANDOFFENCES

Interpretation.

86. (*1*) In this Chapter "tax deficiency" means the difference between the tax properly payable by the person in accordance with the provisions of this Regulation and the amount of tax paid by the person in respect of a calendar month.

(*2*) Where two or more penalties arise under this Regulation in respect of the same person, such person shall be liable to pay only the higher penalty.

Penalty for non-registration.

87. Where a person who is required to be registered under this Regulation has failed to apply for registration within one month from the day on which the requirement arose,

such person shall be liable to pay, by way of penalty, an amount equal to five hundred rupees per day from the day immediately following the expiry of the said period until such person makes an application for registration in such form, containing such particulars and

information and accompanied by such fee, security and other documents as may be prescribed:

Provided that the amount of penalty payable under this sub-section shall not exceed an amount of fifty thousand rupees.

Penalty for contravention of section 21.

88. If, a registered dealer fails to comply with the provisions of sub-section (*1*) of section 21, he shall be liable to pay, by way of penalty, a sum of two hundred and fifty rupees per day of default subject to a maximum of five thousand rupees.

Penalty for contravention of section 22.

89. If a registered dealer—

(*a*) fails to comply with the provisions of sub-section (*2*) of section 22; or

(*b*) fails to surrender his certificate of registration as provided in sub-section (*7*) of section 22,

the registered dealer shall be liable to pay, by way of penalty, a sum equal to five hundred rupees for every day of default subject to a maximum of fifteen thousand rupees.

Penalty for false representation.

90. If any person falsely represents that he is registered as a dealer under this Regulation, he shall be liable to pay a penalty equal to the amount of tax wrongly collected or fifty thousand rupees, whichever is higher.

Penalty for non-compliance of certain conditions.

91. Where a person—

(*a*) has applied for registration under sub-section (*4*) of section 18;

(*b*) has been registered; and either—

(*i*) has failed to undertake activities which would make the person a dealer within the period specified in his application; or

(*ii*) has failed to comply with any of the restrictions or conditions subject to which such registration was granted,

such person shall be liable to pay a penalty of five thousand rupees.

Penalty for failure to furnish return.

92. If a person required to furnish a return under Chapter V—

(*a*) fails to furnish any return by the due date; or

(*b*) fails to furnish with a return any other document that is required to be furnished with the return; or

(*c*) being required to revise a return already furnished, fails to furnish the revised return by the due date; or

(*d*) fails to comply with a requirement in a notification issued under section 70,

such person shall be liable to pay, by way of penalty, a sum of two hundred and fifty rupees per day from the day immediately following the due date until the failure is rectified:

Provided that the total amount of penalty payable under this sub-section shall not exceed twenty-five thousand rupees.

Penalty for filing false

93. Any person who—

(*a*) furnishes a return under this Regulation which is false, misleading or deceptive in a material particular; or

(*b*) omits from a return furnished under this Regulation any matter or thing without which the return is false, misleading or deceptive in a material particular,

shall be liable to pay, by way of penalty, a sum of five thousand rupees or the amount of the tax deficiency, whichever is higher.

Other penalties.

94. (*1*) Any dealer who—

(*a*) has claimed tax credit under section 14 to which he is not entitled; or

(*b*) has claimed a greater tax credit under section 14 than is allowed,

shall be liable to pay, by way of penalty, an amount equal to the amount of tax credit so claimed or five thousand rupees, whichever is higher.

(*2*) Where a tax deficiency arises in relation to a person, the person shall be liable to pay, by way of penalty, a sum equal to one per cent. of the tax deficiency per week or a sum equal to rupees fifty per week, whichever is higher, for the period of default.

(*3*) Where a person is required under this Regulation to—

(*a*) prepare records or accounts; or

(*b*) prepare records or accounts in a prescribed manner; or

(*c*) retain prescribed or notified records or accounts;

and such persons—

(*i*) fails to prepare the prescribed or notified records and accounts; or

(*ii*) fails to prepare prescribed or notified records and accounts in the prescribed manner; or

(*iii*) fails to retain the prescribed or notified records and accounts for the prescribed period; or

(*iv*) fails to retain or produce the prescribed or notified records at the principal place of business as recorded in his certificate of registration; or

(*v*) fails to comply with a direction issued or fails to produce prescribed or notified records and accounts, or cause them to be produced, on or before the date specified in any notice served on him by the Commissioner or by an accountant or a panel of accountants or any other professional or panel of professionals nominated by the Commissioner in this behalf under clause (*a*) of sub-section (*6*) of section 58,

such person shall be liable to pay, by way of penalty, a sum of twenty-five thousand rupees or twenty per cent. of the tax deficiency, if any, whichever is higher.

(*4*) If, any dealer fails to comply with the provisions of section 49, the dealer shall be liable to pay, by way of penalty, a sum equal to one per cent. of his turnover or a sum of fifty thousand rupees, whichever is less.

(*5*) Where a person who is required to prepare records and accounts under this Regulation, prepares records and accounts in a manner that is false, misleading or deceptive, the person shall be liable to pay, by way of penalty, a sum of fifty thousand rupees or the amount of the tax deficiency, if any, whichever is higher.

(*6*) Where a person—

(*a*) has issued a tax invoice or retail invoice with incomplete or incorrect particulars; or

(*b*) having issued a tax invoice or retail invoice, has failed to account it correctly पद ीपे इववो व िंबबवनदजए

such person shall be liable to pay, by way of penalty, an amount of three thousand rupees or twenty per cent. of the tax deficiency, if any, whichever is higher.

(*7*) Where a person who is not authorised under this Regulation to issue a tax invoice has issued a tax invoice for a sale,

such person shall be liable to pay, by way of penalty, an amount of fifty thousand rupees or the tax deficiency, if any, whichever is higher.

(*8*) Any person who fails to comply with the requirement under sub-section (*2*) or sub-section (*3*) of section 59 shall be liable to pay, by way of penalty, a sum of twenty-five thousand rupees.

(*9*) Where goods are being carried by a transporter without the documents or without proper and genuine documents or without being properly accounted for in the documents referred to in sub-section (*2*) of section 61, the transporter shall be liable to a penalty equal to twenty paisa in a rupee for the value of such goods.

(*10*) Any person who—

(*a*) makes a statement to the Commissioner which is false, misleading or deceptive in a material particular; or

(*b*) omits from a statement made to the Commissioner any matter or thing without which the statement is false, misleading or deceptive in a material particular,

such person shall be liable to pay, by way of penalty, a sum of twenty-five thousand rupees, or the amount of the tax deficiency, whichever is higher.

Penalties on certain persons.

95. (*1*) Where a casual trader who is required to be registered under this Regulation has failed to apply for registration within stipulated period, the casual trader shall be liable to pay, by way of penalty, an amount equal to three thousand rupees per day, from immediately following the expiry of the due date until the person makes an application for registration under this Regulation:

Provided that the amount of penalty payable under this sub-section shall not exceed fifty thousand rupees.

(*2*) If a casual trader required to furnish a return under this Regulation—

(*a*) fails to furnish any return by the due date; or

(*b*) fails to furnish with a return any other document that is required to be furnished with the return,

such person shall be liable to pay, by way of penalty, a sum of five hundred rupees per day from the day immediately following the due date until the failure is rectified:

Provided that the amount of penalty payable under this sub-section shall not exceed fifteen thousand rupees.

(*3*) Where any person who, whether as principal, agent or in any other capacity organises any exhibition-cum-sale in Andaman and Nicobar Islands and fails—

(*a*) to furnish any information in respect of the goods brought or kept in stock or sold by any participant before or during or after the exhibition-cum-sale; or

(*b*) to ensure that all such participants in the exhibition-cum-sale have obtained registration under this Regulation and paid due tax; or

(*c*) to permit inspection of the business premises or goods or account and records of the participants; or

(*d*) to permit inspection of the accounts and records of the organiser in respect of the exhibition-cum-sale,

such person shall be liable to pay, by way of penalty, a sum equal to twenty-five thousand rupees or a sum equal to the amount of tax payable on such goods if such goods were sold in Andaman and Nicobar Islands, whichever is higher.

General penalty.

96. Any person, who contravenes any of the provisions of this Regulation or any rules made thereunder for which no penalty is separately provided under the Act, shall be liable to pay a penalty of five thousand rupees.

Automatic mitigation and increase of penalties

97. (*1*) Where as a result of any proceedings, the amount of tax with respect to which a penalty was levied has been wholly reduced, the penalty levied shall be cancelled and if the penalty has been paid, it shall be refunded.

(*2*) If—

(*a*) a person is liable to pay a penalty under sub-section (*2*) of section 94; and

(*b*) the person voluntarily discloses to the Commissioner in writing the existence of the tax deficiency before the Commissioner informs the person that an audit of the person's tax obligations is to be carried out,

the amount of the penalty otherwise due shall be reduced by eighty per cent. of the penalty.

(*3*) If—

(*a*) a person is liable to pay a penalty under sub-section (*2*) of section 94; and

(*b*) the person voluntarily discloses to the Commissioner in writing the existence of the tax deficiency after the Commissioner informs the person that an audit of the person's tax obligations is to be carried out,

the amount of the penalty due shall be reduced by fifty per cent. of the penalty.

(*4*) If—

(*a*) a person is liable to pay a penalty under sub-section (*2*) of section 94;

(*b*) the tax deficiency arose because the person treated this Regulation as applying to the person in a particular way; and

(*c*) the decision to adopt that treatment was made by the person relying on a determination given to the person by the Commissioner under section 84 or a ruling issued by the Commissioner under section 85,

the amount of the penalty otherwise due, shall be reduced to *nil.*

(*5*) Where—

(*a*) the penalty under this Regulation has been assessed;

(*b*) the penalty has not been remitted in full after objection; and

(*c*) the person is subsequently assessed to a further penalty in respect of the same or a substantially similar failure occurring on another occasion (hereafter in this section called the "subsequent offence"),

the penalty otherwise due under this Regulation shall be increased by—

(*i*) in the case of the first subsequent offence, fifty per cent. of the specified penalty; and

(*ii*) in the case of the second and any further subsequent offence, one hundred per cent. of the specified penalty.

(*6*) If—

(*a*) a person is liable to pay penalty under section 86; and

(*b*) the person voluntarily discloses to the Commissioner, in writing, the existence of the tax deficiency, during the course of proceedings under section 60; and

(*c*) makes payment of such tax deficiency within three working days of the conclusion of the said proceedings,

the amount of the penalty otherwise due, against the admitted and paid tax, shall be reduced by eighty per cent.

Relationship to assessment and impact on criminal penalties.

98. (*1*) The penalties specified under this Regulation are owed notwithstanding that no assessment of tax owed under this Regulation has been made.

(*2*) Any penalty imposed under this Regulation shall be without prejudice to any prosecution for any offence under this Chapter.

imprisonment and fine for certain acts

99. (*1*) Whoever—

dealer at the time when he sells or buys goods;

(*b*) knowingly keeps false account or does not keep the account of the value of the goods bought or sold by him in contravention of section 48; or

(*c*) issues to any person a false invoice, bill, cash memorandum, voucher or other document which he knows or has reason to believe to be false,

shall, on conviction, be punishable with rigorous imprisonment for a term which may extend to six months, and with a fine.

(*2*) Whoever knowingly—

(*a*) furnishes a false return;

(*b*) produces before the Commissioner, false bill, cash memorandum, voucher, declaration, certificate, tax invoice or other document for claiming deduction on tax credit; or

(*c*) produces false accounts, registers or documents or knowingly furnishes false information,

he shall—

(*i*) in case where the amount of tax which could have been evaded if the false return, bill, cash memorandum, voucher, declaration, certificate, tax invoice or other document for claiming deduction on tax credit, accounts, registers or documents or false information, as the case may be, had been accepted as true exceeds fifty thousand

rupees, on conviction, be punished with rigorous imprisonment for a term which may extend to six months; and

(*ii*) in any other case, with rigorous imprisonment for a term which may extend to six months, and with a fine.

(*3*) Whoever, wilfully attempts, in any manner whatsoever, to evade payment of tax, penalty or interest or all of them under this Regulation, shall, on conviction, be punished—

(*a*) in any case where the amount involved exceeds fifty thousand rupees during the period of a year, with rigorous imprisonment for a term which may extend to six months, and with a fine; and

(*b*) in any other case, with rigorous imprisonment for a term which may extend to three months and with a fine.

(*4*) Whoever—

(*a*) carries on business as a dealer without being registered in wilful contravention of sub-section (*1*) of section 18;

(*b*) fails without sufficient cause to furnish any information required under section 21;

(*c*) fails to surrender his certificate of registration as provided in sub-section (*7*) of section 22;

(*d*) fails without sufficient cause to furnish any returns as required under section 27 by the date or in the manner prescribed;

(*e*) without reasonable cause, contravenes any of the provisions of section 40;

(*f*) without sufficient cause fails to issue invoice as required under section 50;

(*g*) fails without sufficient cause, when directed so to do under section 48 to keep any accounts or record, in accordance with the directions;

(*h*) fails without sufficient cause, to comply with any requirements made of him under section 58 or 59, or obstructs any officer making inspection or search or ेमप्रनतम नदकमत ेमबजपवदे 60 ंदक 61य

(*i*) obstructs or prevents any officer performing any function under Chapter X;

(*j*) being owner in charge of a goods vehicle fails, neglects or refuses to comply with any of the requirements contained in section 61; or

(*k*) interferes with or obstructs the Commissioner or any officer exercising any other power conferred under this Regulation,

shall, on conviction, be punishable with imprisonment for a term which may extend to six months, and with a fine.

(*5*) Whoever aids or abets any person in the commission of any act specified in sub-sections (*1*) to (*3*) shall, on conviction, be punishable with rigorous imprisonment which may extend to six months, and with a fine.

(*6*) Whoever commits any of the acts specified in sub-sections (*1*) to (*5*) and the offence is a continuing one under any of the provisions of these sub-sections, shall, on conviction, be punishable with a fine of not less than one hundred rupees per day during the period of the continuance of the offence, in addition to the punishments provided under this section.

(*7*) Notwithstanding anything contained in sub-sections (*1*) to (*5*) of this section, no person shall be proceeded under these sub-sections, if—

(*a*) the total amount involved is less than two hundred rupees during the period of a year; or

(*b*) the person has voluntarily disclosed existence of tax deficiency under sub-section (*6*) of section 87.

(*8*) Where a dealer is accused of an offence specified in sub-section (*1*), (*2*) or (*3*) or in clauses (*a*), (*b*), (*c*), (*d*), (*e*), (*f*), (*g*), (*h*) and (*i*) of sub-section (*4*), or sub section (*6*), the

person deemed to be the manager of the business of such dealer under section 95 shall also be deemed to be guilty of such offence, unless he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission thereof.

Offences by companies, etc.

100. (*1*) Where an offence under this Regulation or the rules has been committed by a company, every person who, at the time the offence was committed, was in charge of, and was responsible to the company for the conduct of the business of the company, the company shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Regulation if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(*2*) Notwithstanding anything contained in sub-section (*1*), where an offence under this Regulation has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

(*3*) Where an offence under this Regulation has been committed by a Hindu undivided family, the *Karta* thereof shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render the *Karta* liable to any punishment if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence:

Provided further that where an offence under this Regulation has been committed by a Hindu undivided family and it is proved that the offence has been committed with the consent or connivance of or is attributable to any neglect on the part of any adult member of the Hindu Undivided Family, such member shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

101. (*1*द्ध छव बवनतज ेवीदंसस जंाम बवहदप्रंदबम व िंदल वrिमदबम नदकमत जीपे त्महनसंजपवद वत तनसमे made thereunder except with the previous sanction of the inferior to that of a Metropolitan Magistrate shall try any such offence. ब्वहदप्रंदबम व िoffences.

2 of 1974.

(*2*) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 all वrिमदबमे चनदपेींइसम नदकमत जीपे त्महनसंजपवद वत जीम तनसमे उंकम जीमतमनदकमत ेवीदंसस इम बवहदप्रंइसम and bailable.

102. (*1*) Subject to such conditions as may be prescribed, the Commissioner may Investigation authorise either generally or in respect of a particular case or class of cases any officer or of offences. person subordinate to him to investigate all or any of the offences punishable under this Regulation.

(*2*) Every officer or person so authorised shall, in the conduct of such investigation, exercise the powers conferred by the Code of Criminal Procedure, 1973 upon an officer in वrिमदबमण् बींतहम व िं चवसपबम ेजंजपवद वित जीम पदअमेजपहंजपवद व िं बवहदप्रंइसम

2 of 1974.

103. (*1*) The Commissioner may, before the institution of proceedings for any offence punishable under sub-section (*4*) of section 89 or under any rules made under this accept from any person charged with such offence by way of composition of offence, a sum not exceeding fifty thousand rupees or a sum not exceeding three times the amount of tax which would thereby have been avoided, whichever is higher. Compounding of offences.

(*2*) On payment of such sum as may be determined by the Commissioner under sub-section (*1*), no further proceedings shall be taken against such person in respect of the same offence.

Chapter of the Code of Criminal Procedure, Not to Apply in Certain

2 of 1974.

104. Nothing contained in Chapter XXXVI of the Code of Criminal Procedure, 1973 shall apply to—

(*a*) any offence punishable under this Regulation; or

(*b*) any other offence which under the provisions of that Code may be tried along with such offence, and every offence referred to in clause (*a*) or clause (*b*) ंइवअम उंल इम जंामद बवहदप्रंदबम व िइल जीम बवनतज ींंअपदह रनतपेकपबजपवद नदकमत जीपे Regulation as if the provisions of that Chapter were not enacted.

CHAPTER XIV

MISCELLANEOUS

Dealer to declare the name of manager of business, Permanent Account Number and Importer Exporter Code.

105. (*1*) Every dealer being a Hindu Undivided Family or an association of persons or club or society or firm or company or any person or body who is engaged in business as the guardian or trustee or otherwise on behalf of another person, and who is liable to pay tax under this Regulation, shall, within the period prescribed, furnish a declaration in the manner prescribed, stating the name of the person or persons who shall be deemed to be the manager or managers of such person's business for the purposes.

(*2*) The declaration furnished under sub-section (*1*) may be revised from time to time as required.

(*3*) Every dealer at the time of applying for registration under this Regulation shall mention the Permanent Account Number obtained under the Income-tax Act, 1961:

43 of 1961.

Provided that the dealers already registered under this Act shall intimate their Permanent Account Number obtained under the Income-tax Act, 1961 in the prescribed form, within a period of two months from the date of issuance of notification of this amendment.

43 of 1961.

(*4*) Every dealer liable to pay tax under this Regulation and having an Importer Exporter Code under the provisions of the Foreign Trade (Development and Regulation) Act, 1992, shall mention the Importer Exporter Code, at the time of applying for registration under this Regulation:

22 of 1992.

Provided that the dealers already registered under the Act and having Importer Exporter Code under the provisions of the Foreign Trade (Development and Regulation) Act, 1992, shall intimate the details in the prescribed form, within a period of two months from the date of issuance of notification of this amendment:

22 of 1992.

Provided further that every dealer registered under the Act, who obtains an Importer Exporter Code under the provisions of the Foreign Trade (Development and Regulation) Act, 1992, subsequently shall provide the Code details in the prescribed form, within a period of fifteen days from the date of obtaining such Code.

22 of 1992.

(*5*) Any person who fails to furnish a declaration or, as the case may be, a revised declaration as provided in sub-section (*1*) and sub-section (*2*) or fails to provide details of the Permanent Account Number obtained under the Income-tax Act, 1961, as provided in sub-section (*3*) or fails to provide the Importer Exporter Code under the provisions of the Foreign Trade (Development and Regulation) Act, 1992 as provided in sub-section (*4*), shall be liable to pay, by way of penalty, sum equal to one thousand rupees per week of default subject to a maximum of fifty thousand rupees.

43 of 1961.

22 of 1992.

Service of notice when family is disrupted or firm is dissolved.

106. (*1*) Where a Hindu Undivided Family has been partitioned, notices under this Regulation shall be served on the person who was the last manager of the Hindu Undivided Family, or if such person cannot be found, then, on all adults who were members of the Hindu Undivided Family, immediately before the partition.

(*2*) Where a firm or an association of persons is dissolved, notices under this Regulation may be served on any person who was a partner (not being a minor) of the firm, or member of the association, as the case may be, immediately before its dissolution.

Service of notice in the case of discontinued business.

107. Where an assessment is to be made in respect of business which has been discontinued, a notice under this Regulation shall be served in the case of a firm or an association of persons or any person who was a member of such firm or association at the time of its discontinuance or in the case of a company on the principal officer thereof.

Returns, etc., to be confidential.

108. (*1*) All the particulars contained in any statement made, return furnished or accounts or documents produced in accordance with this Regulation, or in any record of evidence given in the course of any proceedings under this Regulation, other than before a criminal court, shall, save as provided in sub-section (*3*), be treated as confidential, and notwithstanding anything contained in the Indian Evidence Act, 1872, no court shall, save as aforesaid, be entitled to require any servant of the Government to produce before it any such statement, return, account, document or record or any part thereof, or to give evidence before it in respect thereof. 1 of 1872.

(*2*) If, save as provided in sub-section (*3*), any servant of the Government discloses any of the particulars referred to in sub-section (*1*), he shall be punishable with imprisonment for a term which may extend to six months, and shall also be liable to a fine.

(*3*) Nothing contained in this section shall apply to the disclosure—

(*a*) of any of the particulars referred to in sub-section (*1*) for the purposes of investigation or prosecution under this Regulation or the Indian Penal Code or any other enactment for the time being in force; 45 of 1860.

(*b*) of such facts to an officer of the Central Government or any State Government as may be necessary for the verification of such facts or for the purposes of enabling that Government to levy or realise any tax imposed by it;

(*c*) of any such particulars where such disclosure is occasioned by the lawful employment under this Regulation of any process for the service of any notice or the recovery of any demand;

(*d*) of any such particulars to a civil court in any suit or proceeding to which the Government or any Value Added Tax authority is a party and which relates to any

matter arising out of any proceeding under this Regulation or under any other law for the time being in force authorising any Value Added Tax authority to exercise any powers thereunder;

(*e*) of any such particulars by any public servant where the disclosure is occasioned by the lawful exercise by him of his powers under the Indian Stamp Act,
2 of 1899. 1899 to impound an insufficiently stamped document;

(*f*) of any such particulars to the Reserve Bank of India as are required by that Bank to enable it to compile financial statistics of international investment and balance of payment;

(*g*) of any such particulars to any officer appointed by the Comptroller and Auditor-General of India for the purpose of audit of tax receipts or refunds;

(*h*) of any such particulars relevant to any inquiry into a charge of misconduct in connection with income-tax proceedings against a legal practitioner or chartered accountant, to the authority empowered to take disciplinary action against members of the profession to which he belongs;

(*i*) of such particulars to the officers of the Central Government or any State Government for such other purposes, as the Government may, by general or special order, direct; or

(*j*) of any information relating to a class of dealers or class of transactions, if, in the opinion of the Commissioner it is desirable in the public interest to publish such information.

Publication and disclosure of information in respect of dealers and other persons in public interest.

109. (*1*) Notwithstanding anything contained in this Regulation, if the Government is of the opinion that it is necessary or expedient in the public interest to publish or disclose the names of any dealers or other persons and any other particulars relating to any proceedings under this Regulation in respect of such dealers and persons, it may publish or disclose or बंनेम जव इम चनइसपेीमक वत कपेबसवेमक ेनबी दंउमे ंदक चंतजपबनसंते पद ेनबी उंददमत ंे पज जीपदो fit.

tax levied or penalty imposed or interest levied or any conviction for any offence connected with any proceeding under this Regulation, until the time for presenting an appeal to the appropriate appellate body has been expired without an appeal having been presented or the appeal, if presented has been disposed of.

Power to collect statistics.

110. (*1*) If the Commissioner considers that for the purposes of the better administration it is necessary so to do, he may by notification in the Official Gazette, direct that statistics be collected relating to any matter dealt with, by or in connection

(*2*) Upon such direction being made, the Commissioner or any person or persons authorised by him in this behalf may call upon all dealers or any class of dealers or persons to furnish such information or statements as may be stated therein relating to any matter in respect of which statistics are to be collected and the

form in which the persons to whom or, the authorities to which, such information or returns should be furnished, the particulars which they should contain, and the intervals in which such information or returns should be furnished, shall be such as may be prescribed:

Provided that the call for information may be made by notification in the Official Gazette, by notice in newspapers or in such other manner as, in the opinion of the Commissioner or the said person, is best calculated to bring to the attention of the dealers and other persons.

(*3*) Without prejudice to the generality of the foregoing provisions, the Government may by rules provide that every dealer or, as the case may be, any class of dealer shall furnish such statements as may be prescribed, with the self assessment, and different provisions may be made for different classes of dealers.

(*4*) (*a*) The Government may, by notification in the Official Gazette, provide that the provisions contained in the Information Technology Act, 2000, as amended from time to time, and the rules made and directions given under that Act, including the provisions relating to digital signatures, electronic governance, attribution, acknowledgement and dispatch of electronic records, secure electronic records and secure digital signatures and digital signature certificates as are specified in the said notification, shall, insofar as they may, as far as feasible, apply to the procedures under this Regulation. 21 of 2000.

(*b*) Where a notice or communication is prepared on any automated data processing system and is properly served on any dealer or person, then, the said notice or communication shall not be required to be personally signed by the Commissioner or any other officer subordinate to him, and the said notice or communication shall not be deemed to be invalid only on the ground that it is not personally signed by the Commissioner.

Setting up of check-posts and barriers.

111. The Government may, by notification in the Official Gazette, set up check-posts or barriers, or both, at any place in Andaman and Nicobar Islands with a view to prevent evasion of tax and other dues payable under this Regulation.

Power to make rules.

(*2*) In particular and without prejudice to the generality of the foregoing power, such rules may provide for—

(*a*) documents, testimony or other evidence constituting adequate proof under this Regulation;

(*b*) services which may constitute business under clause (*i*) of sub-clause (*d*) of sub-section (*1*) of section 2;

(*c*) activities referred to under clause (*ii*) of sub-clause (*j*) of sub-section (*1*) of section 2;

(*d*) tax period referred to under sub-clause (*zi*) of sub-section (*1*) of section 2;

(*e*) time within which the return may be furnished;

(*f*) the further period referred to under sub-section (*6*) of section 3;

(*g*) the conditions and the method subject to which the amount to be included in जीम जनतदवअमत व ि◌ं कमंसमत मदहंहमक पद ू◌ुवतो बवदजतंबज उंल इम कमजमतउपदमक नदकमत े◌मबजपवद 5य

(*h*) conditions subject to which the dealers may be exempted from payment of tax under section 6;

(*i*) the conditions subject to which a dealer can make adjustments to tax in relation to the sale of goods under section 8;

(*j*) the method to be used by a dealer to calculate the amount of tax credit under section 9 or section 10;

(*k*) the time at which the turnover, turnover of purchase or adjustment of tax or tax credit may arise under sub-section (*4*) of section 12;

(*l*) form of statements, manner, conditions and restriction subject to which credit may be claimed for stock brought forward during transition under section 14;

(*m*) the circumstances and the conditions subject to which, a dealer may be permitted to pay tax by way of composition under section 16;

(*n*) the procedure and forms relating to casual dealers under section 16;

(*o*) the procedure for and other matters incidental to the registration of dealers under section 19;

(*p*) form in which the statement of trading stock is to be furnished under sub-section (*2*) of section 20;

(*q*) the amount of tax credit allowed to a dealer under sub-section (*3*) of section 20;

(*r*) matters relating to amendment of registration certificate under section 21;

(*s*) matters relating to cancellation of registration certificate under section 22;

(*t*) the conditions, amount, manner, time within which and other matters incidental to the security required under section 25;

form in which the returns under section 26 or section 27 are to be furnished;

(*v*) the manner in which any tax, interest, penalty or any other amount due under this Regulation is to be paid;

(*w*) the restrictions and conditions subject to which and the manner and the time within which the application for refund may be made under section 41;

form in which the recovery certificate under section 43 is to be served and the amount mentioned in the said certificate is to be recovered;

form in which the accounts and records are to be prepared under sub-section (*3*) of section 48;

(*z*) the turnover, the form of the audit report, the particulars to be set forth in such report and the time of furnishing such report under section 49;

(*za*) the amount referred to in sub-section (*4*) of section 50 or the conditions and restrictions referred to in sub-section (*8*) of section 50;

(*zb*) the particulars to be contained in the debit or credit notes under section 51;

(*zc*) the conditions subject to which the Commissioner may require any person जव चतवकनबम तमबवतकेए इववो व ि◌ंबबवनदजए तमहपेजमते ◌ंदक वजीमत कवबनउमदजेए ◌ंदेूमत ु◌नमेजपवदे or prepare and furnish additional information under sub-section (*2*) of section 59;

(*zd*) records that an owner or person in charge of a goods vehicle shall carry with him in respect of the goods carried in the goods vehicle under sub-section (*2*) of section 61 and form, manner and amount of security under sub-section (*5*) of the said section;

(*ze*) the manner in which an auction of goods or a goods vehicle shall be carried out under section 63;

(*zf*) the restrictions and conditions subject to which the Commissioner may delegate his powers, and the form of evidence of such delegation under section 68;

(*zg*) the form and manner in which an objection under section 74 or an application for review under sub-section (*11*) of said section may be filed and the fee payable in respect thereof;

(*zh*) the form and manner in which appeals may be filed under section 76, the manner in which such appeals shall be verified and the fees payable in respect thereof;

(*zi*) amount of fee under section 81;

(*zj*) qualifications to be possessed by a Value Added Tax Practitioner under section 82;

(*zk*) manner in which an application may be made and the period within which the determination shall be made under section 84;

(*zl*) conditions subject to which, the Commissioner may authorise any officer or person subordinate to him to conduct investigations under section 92;

(*zm*) period within which and the manner in which the declaration or the communication under section 95 is to be furnished;

(*zn*) the manner in which, and the time within which, applications shall be made (including fees payable in respect thereof), information furnished, securities given and notices served under this Regulation;

(*zo*) any other matter which is required to be, or may be, prescribed.

(*3*) Without prejudice to any provision made in this behalf, any rule made under this Regulation may be made so as to be retrospective to any date not earlier than the date of commencement:

Provided that no rule shall be given effect retrospectively if it would have the effect of prejudicially affecting the interests of a dealer.

(*4*) In making any rules under this section, the Government may direct that a breach thereof shall be punishable with fine not exceeding five thousand rupees and, when the offence is a continuing one, with a fine not exceeding two hundred rupees per day during the continuance of such offence.

Power to amend Schedules.

113. If the Government is of opinion that it is expedient in the interest of general public so to do, it may, by notification in the Official Gazette, add to, or omit from, or otherwise amend, the First, the Second, the Third and the Fourth Schedules,

and thereupon the said Schedules shall be deemed to have been amended accordingly:

Provided that no such amendment shall be made retrospectively if it would have the effect of prejudicially affecting the interests of a dealer.

Power to remove difficulties.

114. (*1*) If any difficulty arises in giving effect to the provisions, the Government may, by general or special order published in the Official Gazette, make such provisions not inconsistent with the provisions as appear to it to be necessary or expedient for the removal of the difficulty:

Provided that no such order shall be made after the expiration of two years from the date of commencement of this Regulation.

(*2*) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.

Application to sales and purchases.

115. (*1*) The tax imposed by section 3 applies to every—

(*a*) sale, including an instalment sale and hire purchase of goods, made on and after the 1st day of July, 2017;

(*b*) sale in the form of the transfer of a right to use goods, to the extent that the right to use goods is exercised after the 1st day of July, 2017.

(*2*) Tax credits arising under section 9 shall be allowed for—

(*a*) a purchase, including a purchase under an instalment sale and hire purchase of goods, made on and after the 1st day of July, 2017; and

(*b*) a purchase occurring in the form of the acquisition of a right to use goods, to the extent that the right to use goods is exercised after the 1st day of July, 2017.

(*3*) Where an amount is paid or received prior to first day of July, 2017 in respect of a sale or purchase occurring after 1st July, 2017, and the person calculates his turnover or turnover of purchases based on amounts paid and received, the amount shall be treated as

forming part of the person's turnover or turnover of purchases in the tax period in which the sale occurs.

Repeal and savings.

116. (*1*) The Port Blair Municipal Council Octroi Tax Bye-Laws, are hereby repealed. (*2*) Notwithstanding anything contained in sub-section (*1*), such repeal shall not affect the previous operation of the said bye-laws or any right, title, entitlement, obligation or liability already acquired, accrued or incurred thereunder.

(*3*) For the purposes of sub-section (*2*), anything done or any action taken including any appointment, notification, notice, order, rule, form or certificate in the exercise of any powers conferred by or under the said bye-laws shall be deemed to have been done or taken in the exercise of the powers conferred by or under this Regulation, as if this Regulation were in force on the date on which such thing was done or action was taken, and all arrears of tax and other amounts due at the commencement may be recovered as if they had accrued under this Regulation.

FIRST SCHEDULE

[*See* section 4 (*1*)]

LISTOFGOODSTOBETAXED

Sl. No.	Description of Goods	Rate of Tax
1.	Petroleum Crude	10 per cent.
2.	High Speed Diesel	10 per cent.
3.	High Speed Diesel (Ship)	10 per cent.
4.	Motor Spirit (Commonly known as petrol)	10 per cent.
5.	Natural Gas	10 per cent.
6.	Aviation Turbine Fuel	10 per cent.
7.	IMFL	10 per cent.
8.	Beer	10 per cent.

THE SECOND SCHEDULE

(*See* section 6)

LISTOFGOODSTOBEEXEMPTED

Sl. No.	Description of Goods	Rate of Tax
	NIL	

THE THIRD SCHEDULE

[*See* section 9 (*1*)(*b*)]

NON-CREDITABLEGOODS

Sl. No.	Description of Goods	Rate of Tax
	NIL	

THE FOURTH SCHEDULE

[*See* section 41 (*1*)]

BODIESENTITLEDTOCLAIMAREFUNDOFTAXPAIDONGOODSPURCHASED

Sl. No.	Name of Organisation	Conditions
	NIL	

RAM NATH KOVIND,
President.

———

DR. G. NARAYANA RAJU,
Secretary to the Govt. of India.

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